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# NOTES ON MILITARY LAW

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CAPTAIN J. C. HARDING NEWMAN



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NOTES ON MILITARY LAW



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NOTES ON

# MILITARY LAW

BY

*John Artwright*  
CAPTAIN J. C. HARDING-NEWMAN

THE ESSEX REGIMENT

AUTHOR OF 'WHAT TO KNOW FOR THE C EXAMINATION'

SECOND EDITION REVISED

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## NOTES ON MILITARY LAW.

THESE Notes are not intended as, and do not pretend to be, an exhaustive treatise on Military Law.

The most important points have been taken and stated more concisely than in the official books in order that the reader may familiarise himself more easily with the essential facts of the Law and Regulations, and (by making use of the references which are given) with the official publications from which they are obtained.

Information on particular subjects which is more or less scattered in the official books has been brought together, and, where possible, tabulated.

J. C. H. N.

GOZO, MALTA,

*February 5, 1906.*

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## NOTE TO SECOND EDITION.

The present edition has been brought up to date in accordance with the Manual of Military Law and King's Regulations, 1908. An appendix has been added, giving concisely the subjects with which each section of the Army Act and Rules of Procedure deal.

J. C. H. N.

CAMBERLEY,

*April 1908.*



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REFERENCES.

M. III. 98	..	Manual of Military Law, Chapter III. para. 98.
Sec. 50	..	Army Act, section 50.
M.A. 5	..	Militia Act, section 5.
R.F.A. 5	..	Reserve Forces Act, section 5.
R.P. 10	..	Rules of Procedure, rule 10.
K.R. 460	..	King's Regulations, para. 460.
A.O. 10/05	..	Army Order, No. 10, 1905.
R.W. 10	..	Pay Warrant, art. 10.
O'D. 50	..	O'Dowd's 'Hints to Courts-Martial,' page 50.
V.A. Sec. 17	..	Volunteer Act, section 17.



# MILITARY LAW.

## CHAPTER I

### ON THE METHOD OF ACQUIRING A KNOWLEDGE OF MILITARY LAW, AND OF USING THE INDEX OF THE MANUAL AND KING'S REGULATIONS.

FOR all examinations in this subject officers are now allowed the use of the Manual and King's Regulations.

It may, perhaps, be considered that under these circumstances failure is impossible. Officers may be inclined to trust to luck in their efforts to answer questions, with the aid of the official books.

Those who do so are running some risks.

It is now not only necessary to have a knowledge of the general principles of Military Law, it is also necessary to be able to quote the paragraphs or sections wherein these principles are laid down.

All the questions of a paper may be answered correctly, but unless the authority for each answer has been quoted, good marks will not be obtained.

The object of the present examinations is not so much to test the candidate's knowledge of a number of minute points of Law as to test his knowledge of the *arrangement* of the official books.

This is with a view to his being able to look up quickly and correctly the Law or the Regulations on a point which may come under discussion, and which he is not expected to be able to answer from memory.

Under these circumstances it seems necessary to remodel the system on which we try to learn the subject.

The writer has found the system roughly outlined below to be satisfactory :

A. If the reader has no knowledge of Military Law, it will be necessary to read through :

- (1) The Manual of Military Law, chapter I., page 3, commencing at section 8.
- (2) The Army Act.
- (3) The Rules of Procedure.
- (4) The King's Regulations. Section VIII. Discipline.

This preliminary is necessary, as the notes in the succeeding chapters have been so much condensed that they may not be intelligible to those who have not some knowledge of the subject.

B. Read the succeeding chapters of this book.

The reader should, by this time, have a knowledge of the 'general principles of Military Law,' as regards what may be called the facts of Law, and also a general idea of the arrangement of the books which he is allowed to use. But more than a general idea of this arrangement of the official books is necessary.

C. When reading these notes, try to find the 'reference' in the Manual or King's Regulations without looking at the marginal notes or the index, from your knowledge of their general arrangement.

Nobody can, however, be certain of being able to do without the index.

The following remarks may, therefore, be of some use.

D. Turn to the index of the Manual and notice these points—

- (1) That references to the Army Act are given in thick type.
- (2) Those to Rules of Procedure in italics.
- (3) Those to the chapters in the early and last part of the book in ordinary type.

- (4) That there are various general headings such as  
     ' Accused.'  
     ' Charge.'  
     ' Courts-Martial.'  
     ' Desertion.'  
     ' Evidence.'
- (5) That the references in the book to the various points which come under this general heading are arranged alphabetically.

An example will make this clear.

Take this question :

' The accused, on being first brought before a Court-Martial, objects to the Court collectively.

How is the matter settled ? '

This clearly will come under the general heading of ' Courts-Martial.'

Under this heading look for the word ' Objection,' remembering the sequence is alphabetical.

On page 734 you find ' Objections to Members,' &c.

You will realise it is a question of procedure, therefore—since references to the Rules of Procedure are given in italics—you will look up pages 468–70. The note to sub-rule *A* on page 469 will give you your answer.

To do this you have merely inverted the question to its index form thus :

Courts-Martial, Objections to Members, a Question of Procedure.

Examples need not be multiplied. The system is the same in every case.

Before leaving this part of the subject, it may be as well to remind readers of the existence of pages xv. to xxxii. at the beginning of the Manual. If the required reference cannot be found in the index, it can often very easily be found here.

It may, perhaps, be now said that so much reading from other books has been suggested, that the necessity

for the succeeding chapters of these notes is not very apparent.

It is hoped, however, that readers will see that the condensed information given has been collected, in regard to particular subjects, from all parts of the Manual.

It should, therefore, be easier to obtain from these notes the general knowledge of Law necessary as a foundation for further reading, and it will be more easily committed to memory.

No special reference to the index of King's Regulations appears to be necessary.

It is easy to decide what is a question of Regulation and what a question of Law or Procedure.

Having done this, the same system of searching the index may be pursued as in the case of the Manual.

## CHAPTER II

### THE MILITARY CODE.

ARMY ANNUAL ACT—ARMY ACT—RULES OF PROCEDURE—KING'S  
REGULATIONS—ROYAL WARRANTS—ARMY ORDERS—REGI-  
MENTAL DEBTS ACT—THE NATIONAL DEFENCE ACT, 1888—  
PERSONS SUBJECT TO MILITARY LAW.

#### Army Annual Act.

PASSED every year. Continues the Army Act in force : M. II. 35.

In the United Kingdom to April 30 ;

Elsewhere to July 31.

A.A.A.  
1908.

Preamble states :

1. That the maintenance of a standing Army within the United Kingdom of Great Britain and Ireland in time of peace, without the consent of Parliament, is illegal.

2. That an Army (strength being stated each year) is necessary for the safety of the Kingdom.

3. That discipline must be enforced by a special Military Code.

Body contains :

M. II. 35.

1. Any amendments to the Army Act necessary.

2. Prices to be paid for billeting.

3. States that Army Act applies to all persons subject to Military Law.

#### Army Act.

Divided into five parts :

M. II. 34.

1. Discipline : Sects. 4-75.

2. Enlistment : Sects. 76-101.

3. Billetting and impressment of carriages : Sects. 102-121.

4. General provisions : Sects. 122-174A.

5. Application of the Act : Sects. 175-190.

*See Army Act.*

### **Rules of Procedure.<sup>1</sup>**

Deal with :

1. Investigation and disposal of offences by Commanding Officer.

2. Convening and constitution of Courts-Martial.

3. Framing of charges, &c.

4. Procedure of Courts-Martial.

5. Confirmation and revision of Courts-Martial proceedings.

6. Rules regarding witnesses, evidence, prisoner's friend, counsel, Judge-Advocate, Field General Courts-Martial and Courts of Inquiry.

7. Forms for Courts-Martial, Courts of Inquiry, Charges, Commitments to prison, Detention Barracks (appended).

### **King's Regulations.**

Contain Regulations as to :

1. Interior economy.

2. Maintenance of discipline.

3. Powers of Commanding Officer.

4. Disposal of prisoners and offences against enlistment.

### **Royal Warrants.**

Issued when necessary and deal with :

1. Discipline.

2. Pay.

3. Promotion.

4. Conditions of service.

**Sec. 70.** | <sup>1</sup> These Rules cannot contain anything contrary to the provisions of the Army Act, must be judicially noticed, and must be laid before Parliament as soon as possible after they are made.

**Army Orders.**

Issued monthly by the Army Council.

Serve to promulgate all orders, regulations, and instructions to the Army.

**Regimental Debts Act.**

Contains information regarding disposal of effects in the case of the death of an Officer or soldier.

**Regulation of the Forces Act.**

Gives Government power to *take possession* of any railway in the United Kingdom in case of emergency.

**The National Defence Act, 1888.**

Gives Government power to *have precedence* of traffic on any railway in case of emergency.

**PERSONS SUBJECT TO MILITARY LAW.<sup>1</sup>**

Reference.	Units.	Persons.	When Subject.
Sec. 175, 176.	British Forces, Indian Forces Colonial Forces called Regulars (includes all who have enlisted to serve for a continuous period)	Officers on active list, half pay, seconded	Always
Sec. 190, p. 437.		Officers not on active list	When on military service under a Regular Officer
		Men	Always
Sec. 176. R.F.A. 6 & 15.	Reserve	Officers and men	1. When called out for training
Sec. 176(5).			2. When called out in aid of civil power 3. When called out on permanent service 4. Always under the Reserve Forces Act 5. When on Military service under a Regular Officer

<sup>1</sup> From this table it will be evident that the only troops available to aid the Civil power are: (1) The Regulars; (2) the Reserve; (3) the Yeomanry. Any other troops when subject to Military Law at that moment.

Reference.	Units.	Persons.	When Subject.
Sec. 176. R.F.A. 15.	Militia Reserve	Men	<ol style="list-style-type: none"> <li>1. When called out for training</li> <li>2. When called out on permanent military service</li> </ol>
Sec. 176.	Pensioners		When on military service under a Regular Officer
Sec. 179, 190 (8).	Marines	Officers and men	When not subject to the Naval Discipline Act, but the powers of the Admiralty cannot be interfered with
Sec. 175-6.	Militia, also Yeomanry Officers commissioned since August 16, 1901	Officers Permanent Staff Men	<p>Always</p> <ol style="list-style-type: none"> <li>1. When embodied</li> <li>2. When out for training</li> <li>3. When attached to Regulars</li> </ol>
Sec. 175, 176.	Yeomanry	<p>If enlisted since the Militia and Yeomanry Act, 1901 Permanent Staff Officers</p> <p>Men</p>	<p>Same as Militia</p> <p>Always</p> <ol style="list-style-type: none"> <li>1. When in actual command of men who are subject to Military Law</li> <li>2. When on actual military service<sup>1</sup></li> <li>3. When doing duty with troops who are subject to Military Law</li> <li>1. When on actual military service M. p. 205.</li> <li>2. When out for training alone or with Regulars</li> <li>3. When attached to Regulars</li> <li>4. When called out in aid of the civil power</li> </ol>

<sup>1</sup> See sec. 17, V. Act.

Reference.	Units.	Persons.	When Subject.
Sec. 175 (3a), 176 (6a).	Territorial Forces	Officers Men	Always 1. When out for training 2. When attached to Regulars 3. When embodied 4. When on actual military service for defence under any agreement
Sec. 176 & M. xl. 65.	Volunteers	Officers and men. (N.C.O.'s and men should be warned when about to be- come liable if not on actual military ser- vice)	Same as Yeomanry except they are not liable for service in aid of the civil power, and not subject to Military Law when train- ing alone M. p. 205-6.
Sec. 175, 180 190.	Indian Forces	1. All British- born subjects and their le- gitimate Christian descendants 2. Officers of Indian Army Reserve Natives of India, Officers, men, and followers	When called out in any military capa- city  Are subject to Indian Military Law, but can be tried under the Army Act
Sec. 175, 176, 177.	Colonials	All raised and paid by the Imperial Government If locally raised	When serving under a Regular Officer  Only when serving with Regulars, and then in so far as may be necessary to supplement the local law
Sec. 175 (4) (7) (8).	Civilians	1. All persons attached to or accompany- ing a force on active service	Always when so em- ployed

Reference.	Units.	Persons.	When Subject.
<b>Sec. 176 (9) (10).</b>		Includes corre- spondents, followers, transport drivers	
<b>Sec. 184, 109, 110, 116, 152, 153, 156, 98, 99.</b>		All persons	As regards sections of Army Act re- lating to billeting, assisting to desert, purchasing uni- form, &c.

## CHAPTER III

### CUSTODY, ETC.

OFFICERS—CLOSE ARREST—OPEN ARREST—ORDERING ARREST—  
PRIVILEGE FROM—THE MANNER OF INVESTIGATION OF A  
CHARGE AFTER ARREST—AGAINST AN OFFICER OR WARRANT  
OFFICER—AGAINST A SOLDIER—POWERS OF COMMANDING  
OFFICERS AS TO OFFENCES—POWERS OF PUNISHMENT OF  
COMMANDING OFFICER — MINOR PUNISHMENTS — GENERAL  
RESTRICTIONS — POWERS AS REGARDS N.C. OFFICERS—  
GENERAL NOTES ON COMMANDING OFFICER'S POWERS—  
POWERS OF COMPANY COMMANDERS—PROFICIENCY PAY, ETC.  
—CONDUCT SHEETS.

A SOLDIER is taken into military custody by being placed in arrest (*i.e.* confined in Barrack or Guard Detention room) or in open arrest (*i.e.* must not quit barracks until his case is disposed of, attends parades but is detailed for no duty). Sec. 45.  
K.R. 473.

A soldier in arrest, when moved from place to place, does so in charge of an escort.

An escort may consist of a single N.-C. Officer or man.

A soldier while in custody is not required to perform any military duty further than that necessary to relieve him from any position of responsibility which he may hold. K.R. 482.

He is not to bear arms except on the line of march or in cases of emergency.

(Old) Barrack cells=(New) Barrack detention rooms.

„ Guard-room cells } = (New) Guard detention rooms.  
„ Prisoners' room }

A.O. 114  
1906

If put on duty in error he is still liable to be proceeded against for the offence for which he was put in arrest.

A crime may be entered in the Guard Report without the accused being confined.

R.P. 2, 135.  
K.R. 484. The case of a soldier taken into custody must be inquired into within 48 hours of his arrest. If not disposed of by the Commanding Officer the latter will either—

1. Convene a Regimental Court-Martial within 36 hours.
2. Apply for a District Court-Martial or General Court-Martial within 36 hours.

R.P. 5, 14, 16. In the case of a Regimental Court-Martial there should be an interval of 18 hours between the warning and the arraignment of the accused, and 24 hours in the case of higher Courts.

If investigation is delayed beyond 48 hours, a report must be made to the Officer Commanding the District or Station.

Sec. 45.  
K.R. 464. If a person subject to Military Law not on active service is detained in custody for more than eight days without a Court-Martial being ordered to assemble, a special report must be made to the Officer Commanding the District or Station, and a similar report made every eight days subsequently until the accused is released or a Court-Martial ordered to assemble.

This report must be made even if the fault of the delay appears to be with the General Officer Commanding—*i.e.* convening Officer.

R.P. 17.  
C. Serious delay (15 days at home, 30 days abroad) must be reported by the convening Officer to the Army Council.

Sec 45.  
K.R. 599. A person subject to Military Law is ordered into military custody by any Officer or N.-C. Officer of superior rank to the offender.

Sec. 10, The only exception to this is in the case of a quarrel, fray or disorder, when an Officer may order a senior to be arrested even of a different corps, *but not if a senior is present and has witnessed the offence or disturbance.*

## Officers

Are put either in open arrest or close arrest. The K.R. 466. latter unless the former is ordered.

## Close Arrest

Means detention in tent or quarters except to take exercise under supervision.

## Open Arrest

Debars an Officer appearing in mess or at any place of amusement or public resort. He may take exercise within defined limits. In both cases uniform must be worn, but without sword, sash, belt or spurs.

## Ordering Arrest.

An Officer usually orders the arrest of a N.-C. Officer or private through the medium of a N.-C. Officer. The latter immediately makes out the 'crime,' which is signed by the Officer and furnished to the Commander of the Guard. The latter enters it in his Guard Report if the accused is confined, or if the case is to be reserved for the disposal of the Commanding Officer, otherwise it is entered in the company minor offence report. Sec. 45.  
K.R. 484,  
435.

If the crime is not furnished at once it must be sent within 24 hours of committal. The non-receipt of a crime is automatically reported to the Commanding Officer, as the Guard Report is furnished to him daily, and if no crime has been received the accused's name is only recorded with 'no crime' entered against it. Sec. 21.

If it is not furnished within 48 hours, and if evidence sufficient to justify detention is not forthcoming, the accused is released.

An Officer is placed in arrest through the medium of a Staff Officer. The order should be in writing. K.R. 463.

An Officer is usually reported to his own Commanding Officer when he has committed an offence, the latter taking the necessary action. The placing of an Officer

under arrest must be immediately reported to the Officer Commanding the District or Station.

### Privilege from.

- Sec. 125** Nobody is privileged from arrest except witnesses before a Court-Martial, when proceeding to, attending at, or returning from the Court, and then only from arrest on a civil process. There is no privilege from arrest on a criminal process.
- K.R. 470.** An Officer under arrest cannot demand a Court-Martial, and cannot be released from arrest without the sanction of the highest authority to whom the case has been referred.
- Sec. 182, 183, 190.** For N.-C. Officers and Warrant Officers not holding an honorary commission the regulations for arrest are the same as for privates. Warrant Officers holding honorary commission, the same as for Officers.
- K.R. 477.** Lance-Corporals or Acting-Bombardiers with less than four years' service should not, except in special cases, confine soldiers, but should report the case to the Orderly Sergeant.
- K.R. 476, 617. A.A. 132.** On the line of march a soldier may if necessary be confined in any police-station or civil 'lock-up' by order of his Commanding Officer *for a period not exceeding seven days*.
- K.R. 475.** For a minor offence a soldier is placed in open arrest only.

## THE MANNER OF INVESTIGATION OF A CHARGE AFTER ARREST.<sup>1</sup>

### Against an Officer or Warrant Officer.

- M. IV. 19. Sec. 45. R.P. 3, 4, 8, 124.** The evidence is taken in writing (if necessary) before the Commanding Officer and in the presence of the accused. A General Court-Martial in the case of an

<sup>1</sup> See K.R. 484, 485, 486.

Officer, or a General Court-Martial or District Court-Martial in the case of a Warrant Officer is applied for within the limit of time already laid down (36 hours).

A Commanding Officer cannot dispose of the cases of offenders of either of the above ranks. Sec. 182.

### Against a Soldier.

Is always investigated first by the Officer Commanding his Company (within the usual time limit).

M.IV. 21.  
K.R. 487,  
484, 1921.

This Officer can either :—

Dispose of the case himself, or refer it to the Commanding Officer.

If he disposes of it himself he endorses the crime with the punishment given.

This is copied into the Company minor offence report, for the information of the Commanding Officer.

If it is referred to the Officer Commanding he may :—

1. Dismiss the case;
2. Dispose of it himself;
3. Convene a regimental Court-Martial; or
4. Apply for a District Court-Martial.

In the latter case the application (or convening of Regimental Court-Martial) must be made within the time limit (36 hours); in the case of drunkenness no investigation must take place until 24 hours have elapsed since the soldier in arrest was confined in the Guard Detention room. K.R. 478.

The Officer Commanding a Company as such can only award a private seven days' C.B. and fines for drunkenness. He may admonish or reprimand a Corporal or Lance-Corporal.

If, therefore, he considers an offence so serious as to merit a punishment more severe than he can give he should refer the case to his Commanding Officer, the crime being then entered in the Guard report.

The Commanding Officer can dismiss a case if he

thinks sufficient evidence is not forthcoming to prove the alleged offence.

A Regimental Court-Martial must be convened within 36 hours as stated above, but not sooner than 18 hours after the original investigation.

K.R. 487. A Commanding Officer by *Law* can deal with any offence, but not with any offender.

By Regulation his powers are restricted as to offences. These powers are tabulated below :

### POWERS OF COMMANDING OFFICERS AS TO OFFENCES.

- |              |  |
|--------------|--|
| K.R. 487     | 1. Offences in respect of service, <u>not on active service</u> .        |
| Sec. 6.      |  |
| Sec. 8 (2).  | 2. Threatening or insubordinate language, <u>not on active service</u> . |
| Sec. 9 (2).  | 3. Disobedience of lawful command, <u>not on active service</u> .        |
| Sec. 10      | 4. Resisting custody, or breaking out of barracks.                       |
| (2, 3, 4).   |  |
| Sec. 11.     | 5. Neglect of Standing Orders.   |
| Sec. 14.     | 6. Assisting or conniving at desertion.                                  |
| Sec. 15.     | 7. Absence.  |
| Sec. 18      | 8. Malingering.  |
| (1, 3).      |  |
| Sec. 19.     | 9. Drunkenness.  |
| Sec. 20.     | 10. Permitting escape of prisoner ( <u>except wilfully</u> ).            |
| Sec. 21.     | 11. Irregularly detaining a prisoner.                                    |
| Sec. 22.     |  |
| Sec. 24.     | 12. Losing by neglect.   |
| Sec. 24.     | 13. Injuring property and ill-treating a horse.                          |
| Sec. 27 (4). | 14. False statement to prolong a furlough.                               |
| Sec. 33.     | 15. False statement on attestation except from Reserve.                  |
| Sec. 34.     | 16. Offences against enlistment regulations.                             |
| Sec. 40.     | 17. 'Conduct to prejudice,' etc.   |

## POWERS OF PUNISHMENT OF COMMANDING OFFICER.

In those cases marked with an asterisk a soldier can claim to be tried by District Court-Martial instead of submitting to the award of the Commanding Officer.

* 1. Detention.	* 2. Detention.	* 3. Fines for Drunkenness.	* 4. Stoppages.
Up to 21 days	Up to 14 days	Up to 10s.	
<i>Notes</i>	<i>Notes</i>	<i>Notes</i>	<i>Notes</i>
(a) For absence only (b) Must not exceed the number of days' absence if over seven  K.R. 493 Sec. 46 (5)	(a) Only if of Field Rank (b) No minor punishment if detention over 168 hours is given (c) May add fines and stoppages  K.R. 493 Sec. 46	(a) If simple must deal with this (b) See Sec. 46 and R.P. 7  K.R. 509	(a) 'To make good' any loss, &c., not more (b) Must leave 1d. a day to soldier  Sec. 138 (4 or 6)

Pay is forfeited for absence, under the Royal Warrant.

The fine or forfeiture is now compulsory by Royal Warrant. But the soldier can claim a District Court-Martial.

### Additional Powers. On Active Service.

#### Soldier only.

*Field punishment*, not exceeding 28 days;

*Forfeiture of pay*, not exceeding 28 days.

## MINOR PUNISHMENTS.

A minor punishment is a punishment which does not involve a forfeiture of pay, either by award or otherwise. A.A. Sec. 46 (8).

### 1. C.B. 14 days.

#### *Notes*

(a) Not more than 10 days' punishment drill. Not more than one hour at a time, or four hours per diem

### 2. Extra guards and picquets.

#### *Notes*

(a) Only for offences when parading for these duties

**General Restrictions.**

**K.R. 493.** 1. If detention exceeding seven days is given, no minor  
**Sec. 46(9).** punishment may be added.

2. Single award of detention and C.B. must not exceed 14 days added together.

3. For more than one award a soldier is not to do more than 14 days' consecutive detention or 28 days' combined detention and C.B.

**R.P. 6.** 4. Detention always commences on the day of award, except when a prisoner is not received into a detention barrack or military custody on day of award.

5. C.B. always commences at expiration of previous award.

**Powers as regards N.-C. Officers.**

**K.R. 302,** (a) Severe reprimand.  
**499, 506.**

**Sec. 183.** (b) Reprimand.

(c) Deprivation of acting or Lance rank.

(d) Deprivation of position in the nature of an appointment. (No minor punishments may be given.)

**General Notes on Commanding Officer's Powers.**

The power of punishment of a Commanding Officer always exceeds seven days' detention, except for absence less than seven days.

**K.R. 493.** 1. Detention for absence if it exceeds seven days must  
**Sec. 46** not exceed the number of days' absence.  
**(5) (6) and**

**Note.** 2. If detention exceeding seven days is given, no minor  
**K.R. 493.** punishment must be added.  
**Sec. 46(9).**

**K.R. 512,** 3. Detention should not be given for simple drunken-  
**497.** ness unless the amount of unpaid fines is 20s. and upwards, or the case is liable to trial by Court-Martial.

**R.P. 6,** 4. Detention up to and including seven days will be  
**135.** given in hours, and commences from the hour a soldier is received into prison, *and if not so received it commences the next day whether received or not.*<sup>1</sup>

**R.P. 6.** <sup>1</sup> He cannot lose pay for this day when he has not been committed  
**Note A,** on day of award of punishment.  
**last three**  
**lines.**

5. Detention over seven days is awarded in days, and commences the first minute of day of award.

6. A soldier guilty of simple drunkenness *must* be summarily dealt with by the Commanding Officer, unless four previous cases have been proved against him within the previous 12 months, without subtracting any time spent in prison or detention or absent. K.R. 510, 511, 512.

7. Fines for drunkenness :

First case, no fine.

K.R. 512.

Second case, 2s. 6d. ; third and subsequent cases, 5s. ; but if within six months of last, 7s. 6d. ; if within three months of last, 10s.

Colonial Corps one-half of above fines.

8. Pay is now forfeited by Royal Warrant for every day of absence without leave. R.W. 902.

Six consecutive hours count as one day.

Twelve consecutive hours count as two days provided part of the 12 hours is in one day and part in another.

Over 12 hours a man loses pay for every day during any portion of which he has been absent.

If a soldier's absence causes a duty to be thrown on another, a day for the purposes of forfeiture of pay may be any time, however short.

9. When a Commanding Officer proposes to give a soldier other than a minor punishment, or his finding is such as to involve forfeiture of pay, he must first ask him whether he desires to be summarily dealt with or be tried by District Court-Martial. R.P. 7.  
Sec. 46(8).

If this is not done a soldier may demand to be tried instead of submitting to the award given him at any time before the hour fixed for the commitment of soldiers under arrest.

10. A Commanding Officer may remit any portion of a punishment given by himself or his Company Commanders any time before the original punishment given is completed. After completion of punishment, the record in the conduct sheet cannot be altered by him. R.P. 6,  
Note B.  
K.R. 507.

This may, however, be done by the General Officer Commanding should he think fit at any time within two years of the awarding of such punishment.

In all cases brought before a Commanding Officer for disposal the accused may now demand that the evidence be taken on oath. Sec. 46 sub.-sec. 6 and note.

### **A Soldier can claim to be tried by District Court-Martial.**

**Sec. 46(8).** 1. When given other than a minor punishment without having been previously asked if he will submit to the award.

**K.R. 509.** 2. When fined for drunkenness.

**495, Sec.** 3. For loss of pay for absence.

**46 (8).** 4. When awarded to stoppages of pay.

**Sec. 46.**

(Put shortly, a soldier may claim a District Court-Martial in any case where his pay is affected by award or finding.)

### **Powers of Company Commanders.**

1. Fines for drunkenness.

**K.R. 501.** 2. Seven days' C.B., but Subalterns of less than three years' service may be restricted to three days' C.B.

**R.P. 129.**

3. Extra Guards and Picquets for offences committed while parading for or on these duties (subject as usual to the approval of the Commanding Officer).

**K.R. 499.** 4. They may also deal with a case against a Non-Commissioned Officer below the rank of Lance-Sergeant, disposing of it by admonition or reprimand (not severe reprimand).

### **Service Pay, etc.**

Since April 1, 1902, the soldier's pay and allowances have been as follows :

1. 1s. a day pay.

2. Messing and kit allowance,<sup>1</sup> 5d. a day.

<sup>1</sup> After the 1st of April, 1909, kit allowance (2d. per diem), will be credited quarterly (15s. 3d.) and consolidated with a quarterly clothing allowance.

A soldier is only paid the latter after having served six months.<sup>1</sup>

NOTE.—The Commanding Officer may request the Accountant to withhold this allowance from unsatisfactory recruits.<sup>1</sup> **A.O.,**  
**d. 17/8/06.**

### Service Pay

Only refers to soldiers enlisted prior to October 19, 1905, who do not change their conditions of service subsequently. **P.W.**  
**App. V.**

Class 1.—6*d.* per day, to increase to 7*d.* per day after five years' service. **A.O.'s**  $\frac{66}{02}$

Class 2.—4*d.* per day, to increase to 5*d.* per day after five years' service.  $\frac{193}{03}$   
 $\frac{51}{04}$   
 $\frac{203}{05}$

### Qualifications for above.

The same as for Proficiency Pay (see below), except that for Class 2 no musketry standard of efficiency is required.

### Proficiency Pay.

Special A. O. September 17, 1906.

Proficiency pay takes the place of Service Pay and Good Conduct Pay for all men who enlist or change their conditions of service—*i.e.* re-engage, continue, or transfer to another branch after October 1, 1906.

### Classification.

Class 1.—6*d.* a day.

Class 2.—3*d.* a day

### Qualifications for either Class.

1. Must be serving for more than three years with the Colours.

2. Have two years' completed service.

<sup>1</sup> After the 1st of April, 1909, there will be no restrictions for men enlisted subsequent to that date.

3. Must be physically fit.

4. Must have 3rd Class Certificate of education.

Warrant Officers and Sergeants are entitled to Class 1 in virtue of their rank.

Corporals and Bombardiers are similarly entitled to Class 2.

Other soldiers must, in addition to above qualifications for Class 1, be a 1st Class shot ; for Class 2 be a 2nd Class shot or efficient signaller ; if enlisted as boys, be 20 years of age.

No man can draw Proficiency Pay while suffering from venereal or alcoholism.

Service Pay for men enlisted prior to October 1, 1906, continues ; but from November 1, 1907, the qualifications for Class 1 are the same as those for Proficiency Pay.

A man may be reduced from Class 1 to Class 2 if he falls below the necessary standard of efficiency.

Service and Proficiency Pay cannot be forfeited for misconduct.<sup>1</sup>

### Messing and Kit Allowance.

A.O. 280  
1907 Issued automatically to soldiers, messing from date of attestation, kit on attaining six months' service.

With reference to the various punishments which have been enumerated in this chapter it will be found useful to study the tabulated form on the following page showing what punishments are entered in the Regimental and Company conduct sheets respectively.

<sup>1</sup> Previous service counts. Periods of det. imp. or absence are not deducted.

## ENTRIES.

Regimental conduct sheets of Colour-Sergeants and ranks above will be kept as confidential documents.

Company Conduct Sheet. K.R. 1921.	Regimental Conduct Sheet. K.R. 1916.
<ol style="list-style-type: none"> <li>1. Every offence for which more than one day's C.B. has been given</li> <li>2. Every offence of drunkenness whether punished or not</li> <li>3. Every offence entailing a forfeiture of pay, whether punished or not</li> <li>4. Every case of admission to Hospital for alcoholism</li> </ol> <p>Put shortly. Enter every offence, whether punished or admonished of :</p> <ol style="list-style-type: none"> <li>(a) Drunkenness</li> <li>(b) If it entails forfeiture of pay</li> </ol>	<ol style="list-style-type: none"> <li>1. Every conviction by C.-M.</li> <li>2. Every case of desertion or fraudulent enlistment when trial dispensed with</li> <li>3. Every conviction by Criminal or Summary Jurisdiction Court<sup>1</sup></li> <li>4. Severe reprimand</li> <li>5. Reduction to a lower grade or ranks, and deprivation of lance stripe for an offence (not for inefficiency)</li> <li>6. Every award of detention</li> <li>7. C.B. exceeding seven days</li> <li>8. Every instance of drunkenness, whether punished or not</li> <li>9. Any punishment awarded on board ship by O.C. ship</li> <li>10. Stoppage of smoking exceeding seven days or its equivalent</li> <li>11. Every offence entailing forfeiture of pay, except for :               <ol style="list-style-type: none"> <li>(a) Absence not exceeding two days</li> <li>(b) Civil conviction punished by fine if G.O.C. so directs</li> <li>(c) Offences committed before enlistment</li> </ol> </li> <li>12. Punishments awarded by visitors to prison's detention bks., &amp;c., (branch detention bks. only when ordered)</li> <li>13. Convictions under R.F. Act</li> <li>14. Admissions to hospital for alcoholism</li> <li>15. Special acts of gallantry or distinguished conduct</li> </ol>
<p>Other offences only when C.B. exceeding one day is awarded</p>	

<sup>1</sup> Not to be given in evidence before Court-Martial, if offence committed before enlistment or when not a deserter.

The following documents are attached to R.C.S. :

1. Records of Court of Inquiry under Sec. 72.
2. Copies of all convictions by civil power.

If imprisonment over seven days has been awarded by Civil power, it is evidence as a former conviction by C.-M.

M. V. 27,  
pp. 582,  
604.

As previously stated, when a Commanding Officer does not deal with a case himself, he either convenes a Regimental Court-Martial or applies for a District or General Court-Martial to the General Officer commanding.

In the latter cases the following documents are forwarded with the application :

1. The charge-sheet.
2. Summary of evidence.
3. Conduct sheets.
4. Statement as to character and particulars of service.
5. List of witnesses.
6. Medical certificate showing the accused is fit to undergo trial.
7. Name of the Officer who investigated the charge.

## AMENDMENTS TO KING'S REGULATIONS.

Issued with A.O. February, 1907.

The substance of the amendments as regards conduct sheets is as follows :

K.R.  
1916, 1921.

1. Officer's Court-Martial book is abolished. Regimental conduct sheets for Officers who have been convicted by a C.-M. will be kept instead. Ditto for Warrant Officers.
2. Regimental and Company defaulter sheets are abolished. Regimental and Company conduct sheets will be kept instead.
3. Regimental conduct sheets will be kept for every N.-C. Officer and man in the battalion ; those of Warrant Officers and Colour-Sergeants being confidential.

**Regimental Conduct Sheets.**

4. The following will be entered in R.C. sheets :

- (1) Every conviction by C.-M.
- (2) Every case of desertion or fraudulent enlistment when trial dispensed with.
- (3) Every conviction by Criminal or Summary Jurisdiction Court.
- (4) Severe reprimand.
- (5) Reduction to lower grade or ranks and deprivation of Lance stripe for an offence not inefficiency.
- (6) Every award of detention.
- (7) C.B. exceeding seven days.
- (8) Every instance of drunkenness.
- (9) Any punishment on board ship by C.O. of ship.
- (9a) Stoppage of smoking exceeding seven days or its equivalent.
- (10) Every offence entailing forfeiture of pay, except for :
  - (a) Absence not exceeding two days.
  - (b) Civil conviction punished by fine, if G.O.C. so directs.
  - (c) Offences committed before enlistment.
- (11) Punishments awarded by visitors to prisons, detention barracks, etc. (to branch detention barracks only when ordered).
- (12) Convictions under Sec. R.F. Act.
- (13) Admissions to hospital for alcoholism.
- (14) Special acts of gallantry or distinguished conduct.

**5. Company Conduct Sheets**

**K.R.**  
**1921.**

Will be kept for every N.-C. Officer and man.

The following will be entered in this sheet :

- (1) Every offence for which more than one day's C.B. has been given.
- (2) Every offence of drunkenness, whether punished or not.

(3) *Every* offence entailing a forfeiture of pay, whether punished or not.

(4) Every admission to hospital for alcoholism, whether punished or not.

Put shortly, enter every offence, whether punished or admonished, of :

(a) Drunkenness.

(b) If it entails forfeiture of pay. Other offences only when C.B. exceeding one day is awarded.

#### 6. Company Conduct Sheets will be destroyed

(1) On discharge.

(2) On transfer to Reserve.

<sup>1</sup> (3) On completion of six months' service (unless it is 'clean').

(4) After a period of two years clear of an entry.

<sup>2</sup> (5) On attaining rank of Sergeant.

A clean sheet is, of course, never destroyed.

A new sheet is to have the date of destruction and date of last entry shown at the top.

7. A Captain's pocket-book takes the place of conduct sheets on active service.

8. Company Commanders may reprimand Corporals and Lance-Corporals.

<sup>1</sup> and <sup>2</sup> Only when completed or promoted after date of publication of this A.O.

## CHAPTER IV.

### CLASSIFICATION OF ARMY ACT. CRIMES.

LIMITATION CLAUSE—DEFINITIONS—OFFENCES FOR WHICH NO ALTERNATIVE AS REGARDS PUNISHMENT IS ALLOWED—OFFENCES EXCEPTIONALLY TREATED—OFFENCES AGAINST ARMY ACT WHICH CAN BE DEALT WITH BY CIVIL COURTS.

Before dealing with crimes the limitation clause should be noted.

#### Limitation Clause.

1. No crime can be tried if three years have elapsed since its commission.

Sec. 158,  
161.  
K.R. 489

<sup>1</sup> 2. Or if the offender has ceased to be subject to Military Law after three months have elapsed since his so ceasing to be subject.

This does not affect his liability to be tried by Civil Court.

#### Exceptions to Limitation.

1. Desertion on active service <sup>2</sup> and mutiny can always be tried.

2. Both desertion and fraudulent enlistment if committed not on active service can also always be tried, unless in both cases a man has served in an exemplary manner (*i.e.* no entry in Regimental conduct sheet) for three years since the commission of the offence.

<sup>1</sup> A person sentenced to penal servitude or imprisonment is subject to Military Law as long as his sentence lasts.

*Trafficking in commissions is dealt with in Section 155.*

<sup>2</sup> See Sec. 189 for definition of Active Service. It may be noted that troops in Egypt are always on active service.

**Offences of Reserve and Militia.**

Referring to :

- |   |   |
|---|---|
| <b>R.F.A.</b><br>26.<br><b>M.A.</b> 43. | 1. Assembly and payment.<br>2. Absence.<br>3. False answer on attestation.<br>4. Contravention of enlistment laws of Militia. |
|---|---|

Can be tried within two months after the discovery of offence by the Officer who has power to dispose of it, or if the man has not then been apprehended, within two months after his apprehension.

**Classification of Army Act.**

- |   |   |
|---|---|
| <b>Sec. 1-75.</b><br>„ 76-101.<br>„ 102-121.<br>„ 122-<br>174a.<br>„ 175-190. | 1. Discipline.<br>2. Enlistment.<br>3. Billetting and impressment of carriages.<br>4. General provisions.<br>5. Application of Act. |
|---|---|

**Definitions.****Forcing a Safeguard.**

- |                |   |
|----------------|---|
| <b>Sec. 6.</b> | Safeguard is a party of soldiers or single soldier detached to guard any particular property from depredations of our own troops. |
|----------------|---|

**Mutiny.**

- |                                     |                             |
|-------------------------------------|-----------------------------|
| <b>Sec. 7.</b><br><b>M. III. 4.</b> | Collective insubordination. |
|-------------------------------------|-----------------------------|

**Insubordination.**

- |                                 |                                |
|---------------------------------|--------------------------------|
| <b>Sec. 8, 9,</b><br><b>10.</b> | Mutinous act of an individual. |
|---------------------------------|--------------------------------|

**Sedition.**

- |                |  |
|----------------|--|
| <b>Sec. 7.</b> | Similar to mutiny but directed more against civil power. |
|----------------|--|

**Violence to Superior Officer.**

- |  |   |
|--|---|
| <b>Sec. 8.</b><br><b>Sec. 190</b><br><b>(7).</b> | Superior Officer includes any N.-C. Officer or Acting N.-C. Officer, and does not include a private soldier |
|--|---|

temporarily placed in authority. An offer of violence only includes such an attempt as, if not prevented, could be reasonably supposed to lead to an act of violence.

### **Being in the Execution of his Office.**

May be defined thus :

Sec. 8.  
Note 1.

When a soldier commits an offence against any person whom he may reasonably be supposed to know from any cause whatever is a superior Officer.<sup>1</sup>

### **Threatening or Insubordinate Language.**

Essential points :

- (a) An intention to be insubordinate must be apparent. Sec. 8.
- (b) It must be shown that the accused knew his words would be overheard. M. V. 86.

(Otherwise they must be dealt with under Sec. 40.)

### **Lawful Command.**

- (a) The command must be given by a superior who has a right to do so. M. III. 10.
- (b) The command must refer to some military duty.
- (c) It must not be contrary to civil law.

### **Disobeying Lawful Command.<sup>2</sup>**

Essential points :

- (a) The command must be given by a superior in the execution of his office. Sec. 9.  
M. III. 8.
- (b) It must be lawful.
- (c) It must be given personally.
- (d) The disobedience must show wilful defiance of authority.

<sup>1</sup> NOTE.—This may be either because the superior was in uniform or being in plain clothes informed the soldier of his identity.

<sup>2</sup> See Chap. III. par. 10, p. 17 of Manual. Mess waiters can be given a lawful command in regard to their mess duties.

**Desertion—**

**Sec. 12.** Is committed when a man absents himself with the  
**M.III.13.** intention either :

**R.F.A.**

**Sec. 15.** (a) Of not returning to the service.

**M.A.** (b) Of evading active service.

**Sec. 23.**

**V.A.** (c) Of evading foreign service.

**Sec. 17.**

(d) Of evading service in aid of civil power.

(e) If a man absents himself from the Regulars and enlists in the Militia or Territorial Forces he is not debarred from being tried for desertion. (Difference of conditions of service so great.)

The length of time a man has been absent, or the distance he has gone before being apprehended, have practically nothing to do with determining a case of desertion. The facts of the case will always show whether desertion was intended or not.

This is one of the cognate offences referred to hereafter.

**Penalties on Conviction of Desertion.**

**Sec. 79.**

**R.W.**

**1023, 1042,**

**1158, 902,**

**1064.**

On conviction or confession of desertion, even though in the latter case trial may be dispensed with, a soldier forfeits :

1. All prior service towards discharge and pension.
2. All good conduct badges.
3. All gratuities (if any due to him).
4. All medals (other than V.C.).

For every day of his absence or detention awaiting trial he forfeits :

1. Pay.
2. Service towards pension.
3. He is liable to general service in commutation of sentence.

**K.R.**

**1300, 514,**  
**1868.**

A man absent for more than 21 days, or if on furlough for more than five days after the expiration of his furlough, is reported as a deserter, though he need not necessarily have deserted.

**Fraudulent Enlistment**

Is committed when, without fulfilling the proper **Sec. 13.** conditions :

A Regular	Enlists in  Enrols him- self	Any of the Regular or Re- serve Forces (not subject to Military Law), Militia, Navy or Territorial Forces In any force raised in India or a Colony
A Militiaman (em- bodied) or Terri- torial Soldier	Enlists in  Enrols him- self	Any of the Regular or Reserve Forces (not sub- ject to Military Law), Militia or Navy, Yeo- manry or Volunteers In any force raised in India or a Colony
Reserve (on per- manent service)	Enlists in	Same as Regular
Yeoman (on actual military service)	Enlists in  Enrols him- self	Militia (if a Yeoman before August 1901; if after, same as Militia) In any force raised in India or a Colony
Volunteer (on actual military service)	Enlists in  Enrols him- self	Militia  In any force raised in India or a Colony
Navy	Enlists in	Militia

**M.A. 26.****R.F.A.  
14.**

False answer on attestation is committed under the following circumstances :

When a Recruit	Gives a false answer	When being enlisted
Militiaman (not em- bodied)	Enlists in	Reserve, Militia, Yeomanry, Volunteers, Navy
Reserve (not called out)	Enlists in	Regulars or Militia

**Sec. 33,  
99.****M.A. 26,**

Yeoman actual service	not on military	Enlists in	Regulars or Militia
Volunteer actual service	not on military	Enlists in	Regulars or Militia
Navy		Enlists in	Regulars or Militia

It will be noticed that if the offender is for the time being *permanently* subject to Military Law at the time of offence he has, as a rule, committed the offence of fraudulent enlistment ; and if not subject to Military Law at the time, he has made a ' false answer ' only.

(A false answer as to age should not as a rule be made the subject of a charge.)

### Illegal Enlistment.

Sec. 32.  
M.A. 10.

When a man who has been discharged with disgrace from H.M. Forces (includes Navy) enlists in the Regulars or Militia without having declared the circumstances of his discharge.

### Discharged with Disgrace.

Includes :

1. With ignominy.
2. As incorrigible and worthless.
3. For misconduct.
4. On account of conviction for felony.
5. On account of a sentence of penal servitude.
6. Discharged from the Navy ' Services no longer required ' should not be charged under Sec. 32.

### Absence Without Leave.

K.R. 673,  
514, 1300.  
Sec. 72.  
R.P. 125.

After a man has been absent for more than 21 days or five days off furlough, he is reported as a deserter, and a Court of Inquiry is assembled. This Court takes evidence on oath to prove the illegal absence and any deficiency of kit.

A record of these proceedings is kept in the Regimental Court-Martial Book.

Attention is again called to the fact that the man is not necessarily a deserter, but he can be tried as a deserter just as can a man who has been absent for two or three days.

It will rest with the man to prove he did not intend to desert.

A Militiaman called out for training or embodiment **M.A. 28.** who fails to appear within 14 days has an entry to this effect made against his name in the Regimental books.

This is taken as conclusive evidence of his absence.

In cases of absence, desertion, fraudulent enlistment, false answer on attestation, men of the

Reserve,

Militia, and

Territorial Forces,

may be tried by a Civil Court.

For assisting a Reserve-man or Militiaman to absent **M.A. 25.** himself a person may be fined a sum not exceeding 20*l.* by a Civil Court.

For doing the same for a Regular six months' imprisonment **Sec. 153.** may be given by a Civil Court.

**Two Offences for which no alternative as regards punishment is allowed.**

**1. 'Scandalous Conduct'—**

By an Officer (must on conviction be cashiered). **M.III.35.  
Sec. 16.**

**2. 'Murder'—**

Must on conviction be sentenced to death, but this **Sec. 41,  
57 (1).** may be commuted by confirming Officer.

**Embezzlement.<sup>1</sup>**

Fraudulently converting to one's own use property **Sec. 17.  
M.III.24.  
VII. 59.** received from or held for another.

<sup>1</sup> The property is legally in possession of the offender.

**Stealing.<sup>1</sup>**

Sec. 18. Wilfully or fraudulently obtaining possession of the  
M.III.23. property of another with the intent to permanently  
deprive him of it.

Stealing from a civilian must be dealt with under  
Sec. 41, or by a Civil Court.

**Contempt of Court.**

R.P. 59. Can be specially dealt with thus :

Sec. 28, When committed by an Officer or soldier—  
126, 129,

190. (a) Can be arrested and sent for trial before another  
Sec. 180 Court.  
(1).

(b) Can be given up to 21 days' imprisonment by the  
President.

**By Civilian—**

(a) Can be turned out of Court.

(b) Reported by the President to the High Court of  
Justice to be dealt with by the latter.

(c) In India may be tried by Court-Martial.

**Of Counsel as above—**

In these cases the offender can be punished by Civil  
Court as if the offence was committed before one of the  
High Courts.

Sec. 129 He can be removed from the Court.  
(3).

**'Conduct to the Prejudice,' etc.**

Sec. 40. The offence must be one that cannot be met by any  
other section of the Army Act, or must be an attempt  
only to commit a specified offence which is so met.

Sec. 41. Remember that charges under Section 41 (civil offences)  
K.R. 487, cannot be tried by a Regimental Court-Martial or be  
548. dealt with by a Commanding Officer without permission  
of superior authority.

Five of these offences cannot be tried by any Court-  
Martial, unless under the conditions noted on p. 51.

<sup>1</sup> The property is illegally obtained possession of by the offender.

## OFFENCES EXCEPTIONALLY TREATED.

Offences.	Punishment.	
Serious misbehaviour	On active service, death. Otherwise, cashiering or imprisonment	Sec. 6.
Violence to superior in execution of office	Death	Sec. 8.
Violence or threatening or insubordinate language	On active service, penal servitude	Sec. 8.
'Wilful defiance, &c.'	Otherwise, cashiering or imprisonment	
Disobedience to lawful command	Death	Sec. 9.
	On active service, penal servitude	
	Otherwise, cashiering or imprisonment	
Desertion	On active service, death	Sec. 12.
	Otherwise, first offence, imprisonment	
	Second offence, penal servitude	
Fraudulent enlistment	First offence, imprisonment	Sec. 13.
	Second offence, penal servitude	
Scandalous conduct of an Officer	Must be cashiered	Sec. 16.
Drunkenness (if simple)	Must be fifth case within the year or the prisoner has elected to be tried	Sec. 19.
Releasing or permitting escape of prisoner	If wilful, penal servitude	Sec. 20.
Contempt of Court	Otherwise, imprisonment	
	To be tried by another Court—cashiering or imprisonment	Sec. 28.
	Summarily, 21 days' imprisonment by President	

## OFFENCES AGAINST ARMY ACT WHICH CAN BE DEALT WITH BY CIVIL COURTS.

Offence.	Offender.	Punishment.	
Recruits without authority	Any person	Fine £20	Sec. 98.
False answer recruit	Any person	3 months' imprisonment	Sec. 99.
Billeting	Constable	Fine £10	Sec. 109.
Refuses billet	Innkeeper	Fine £5	Sec. 110.
Illegally billeting	Officer or soldier	Fine £50.	Sec. 111.
Payments refusal for billets	Officer or soldier	Pay costs	Sec. 119.
Forges requisition	Any person	3 months or £5	Sec. 121.
Impressment	Constable	Fine £20	Sec. 116.
Refuses to give conveyance	Innkeeper	Fine £10	Sec. 117.

	Offence.	Offender.	Punishment.
<b>Sec. 118.</b>	<i>Re</i> impressment	Officer or soldier	Fine £50.
<b>Sec. 126.</b>	Non-attendance as witness	Civilian	Same as Civil Court
<b>Sec. 142.</b>	Personation	Any person	3 months or £25.
<b>Sec. 143.</b>	Tolls	Any person	Fine £5
<b>Sec. 152.</b>	False Confession, desertion	Any person	3 months' imprisonment
<b>Sec. 153.</b>	Persuades to desert	Any person	6 months' imprisonment
<b>Sec. 155.</b>	Sale of commissions	Any person (Officer dismissal)	6 months' imprisonment or fine £100.
<b>Sec 156</b>	Buys equipment, &c.	Any person	1st offence £20 fine ; <sup>1</sup> 2nd offence, same or 6 months' imprisonment

<sup>1</sup> Pay three times value.

## CHAPTER V.

### CHARGES AND WITNESSES.

CHARGE-SHEETS—PRIVILEGE OF WITNESSES FROM ARREST—  
COMPETENCY—EXAMINATION OF WITNESSES.

#### Charge-Sheets—

(For form see M., p. 543) may contain one or several charges.

R.P. 9, 10,  
11.  
R.P. 134  
(c).

In two parts as regards each charge :

1. Statement of the offence in the words of the Army Act. **App. 1.**

2. Statement of the particulars in words concisely describing the offence.

If an accused person has elected to be tried instead of submitting to the award of his Commanding Officer this should be stated in red ink at the top of the charge-sheet.<sup>1</sup>

If there is a doubt as to how offences should be described, separate alternative charges may be used on the same charge-sheet. **Sec. 18, 8,  
40, 24.  
R.P. 11.**

In no case, however, should an offence be described in the alternative in the same charge.

#### Joint Charges.

Any number of accused persons may be tried together for an offence committed collectively. **R.P. 15.**

<sup>1</sup> In the case of loss of kit the value of public property need only be stated. The value of articles which the soldier keeps up at his own expense need not be mentioned.

### Separate Charge-Sheets

**R.P. 62.** Are used to prevent confusion in evidence. In this case the Court proceed on each charge separately up to and including the finding.

**R.P. 78.** Witnesses are summoned before the assembly of the Court by the convening Officer.

After the assembly, by the President.

Military witnesses are *ordered* to attend.

Civilians are *summoned* by an order in writing from either of the above, or the Judge-Advocate General, or the Commanding Officer of the accused.

The only person exempt from being summoned as a witness is the King.

**Sec. 9, 28, 126, 180 (1).** Neglect to answer to a summons may be punished as disobedience (soldier) or contempt (civilian). (Summons must be served personally in all cases and not through a third person.)

### Privilege of Witness from Arrest.

**Sec. 125.** While attending at, going to, or coming from Court, from arrest on civil process, but not from arrest on a criminal charge.

### Competency of Witnesses.

**M.VI. 83, et. seq.** Everybody is competent to give evidence except :

**R.P. 80.** For the Prosecution.

(a) The accused.

(b) Any accused person being tried jointly (until he becomes King's evidence).

(c) The wife of the accused.

(d) The wife of an accused person being tried jointly.

(e) A member of the Court.

(f) The Judge-Advocate.

Any of the above may give evidence for the defence.

### Neither for Prosecution nor Defence.

A person who from extreme youth or want of understanding cannot understand the obligation of an oath.

A competent witness may not always be a credible witness. **M. VI. 91.**

Example : A convict.

For forms of oaths see **M. p. 318**, and **R.P. 27-30**.

### Prosecutor.

When called as a witness should be examined first. **R.P. 39.**

### The Accused.

May give evidence at any time, but should give it first. **R.P. 41, 80.**

### The Examination of Witnesses is divided into :

1. Examination in chief (by side calling him).
2. Cross-examination (by opposite side).
3. Re-examination (by side calling him).

### Examination in Chief.

Leading questions (*i.e.* questions suggesting the answer desired) are not admissible, except : **M. VI. 107 et seq. 110, 111.**

(a) Introductory (*i.e.* forming no part of real substance of charge).

(b) On admitted points to save time.

(c) To help the memory.<sup>1</sup> (In the interests of justice only. See **M. VI. 110.**)

### Cross-Examination.

(a) Leading questions may be put.

(b) Irrelevant questions may be put, but the latter must be relevant to the main issue before the Court. **M. VI. 112, 113.**

(c) Degrading questions may be put (*i.e.* questions put in order to test the veracity, accuracy, or credibility of the witness by injuring his character).

This type of question may be disallowed by the Court if they think an answer would not affect their opinion. **R.P. 92.**

<sup>1</sup> If a witness shows himself hostile to the side which calls him he may, *with the permission of the Court*, be treated as a hostile witness and be cross-examined and asked leading questions. A witness may refresh his memory from notes, but may not read his evidence. **M. VI. 70.**

**R.P. 80.** An accused person giving evidence cannot be asked questions referring to a supposed criminal act not covered by the charge, unless :

1. The evidence necessary to prove it is admissible evidence to the charge.

2. He has given evidence of his good character, or cast imputations upon prosecutor or his witnesses.

3. He has given evidence against any other person charged with the same offence.

**M. VI. 116.** (*d*) Questions as to previous statements in reference to the case made by a witness may be put.

### **Privilege.**

**A.A. sec. 128. R.P. 73 (b).** All witnesses are bound to answer questions put to them except those which would involve :

#### **(a) A Criminating Answer—**

**M. VI. 93, 94.** *i.e.* one which would render the witness liable to a criminal charge or military punishment (not a civil suit).

#### **(b) A Degrading Answer.**

**M. VI. 114, 92.** Unless the truth of the imputation would affect, in the opinion of the Court, the credibility of the witness.

#### **(c) The Disclosure of Professional Secrets.**

Professional secrets are communications made by a client to his legal adviser (as such). See M. p. 79.

**M. VI. 102.** Medical men and clergymen are not included, but questions to them would not be pressed.

#### **(d) Official Secrets.**

**M. VI. 95.** The proceedings of a Court of Inquiry cannot be produced as evidence, as it comes under the heading of Official Secrets.

### **Husband and Wife.**

**M. VI. 100.** Cannot be forced to disclose information imparted to one another since they have been married.

**Contradiction of Answers.**

Answers given must be accepted as true, except :

**M. VI.**  
**115.**

1. When a witness is asked whether he has been previously convicted and denies it, or refuses to answer.
2. When asked a question to show he is not impartial.
3. When a previous answer is inconsistent with the present one.
4. When he can be shown to be a notorious liar.

**Credibility may be impeached.**

1. By producing evidence to contradict a witness.
2. By making him contradict himself.
3. By discrediting his character.
4. By bringing witnesses to swear from their knowledge that the witness is unworthy of credit on oath.

**M. VI.**  
**113.**

**M. VI.**  
**117.**

## CHAPTER VI.

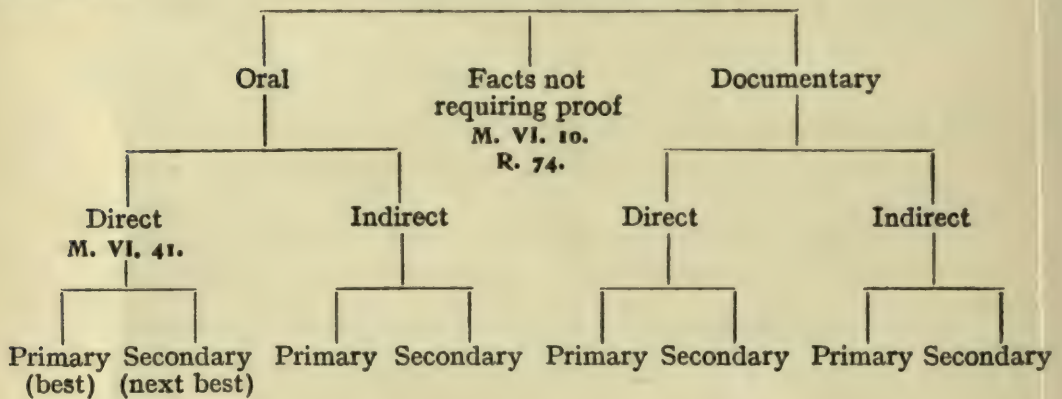
## EVIDENCE.

DEFINITION OF — EXCLUSION OF — ORAL — DOCUMENTARY —  
 DIRECT — INDIRECT — PRIMARY — SECONDARY — FACTS NOT  
 REQUIRING PROOF — BURDEN OF PROOF — PRESUMPTIONS —  
 RULES OF EVIDENCE.

NOTE.—The four rules of evidence are tabulated on the following page together with the exceptions thereto. This table is only meant to aid the memory, and should be looked up under the references given.

M. VI. 3.

Evidence may be :—



## Definition of Evidence.

M. VI. 5. The testimony on which facts are believed.

The advantages of excluding certain Evidence are :—

1. It assists the Court by keeping their minds concentrated upon the issue.
2. It secures fair play to the accused.
3. It protects absent persons.
4. It prevents waste of time.

## RULES OF EVIDENCE.

M.VI. 15

Evidence must be :

1. Relevant	2. The Best	3. Not Hear-say	4. Not Opinion
except	<i>i.e.,</i>	except	except
Evidence which does not exactly bear on the charge may be produced—	1. One witness enough except for treason and perjury	1. Dying declaration	1. Experts
1. In offences connected	2. Original documents. When the best is not obtainable as above secondary is used, <i>i.e.</i> —	2. Against our own interest	2. Cases of identification
2. Facts showing intention	1. Depositions	3. <i>Res Gestae</i>	3. Conduct
3. Facts showing motive	2. Copy of minor documents only when	4. Statements made in course of business	M. VI. 63, 68, 66.
4. Conspiracy	3. Original in possession of other party	5. Public documents	
—	4. In possession of witness not legally bound to produce	M. VI. 46, 48, 49, 53, 58, 81. R. 17. M. VI. 60, 62.	
1. As to general disposition	5. Original lost or destroyed		
2. As to character cannot be produced as evidence but may be elicited in cross-examination	6. Original bulky or delicate		
M. VI. 16, 21, 22 25, 26, 20, 17. R.P. 40, 86.	7. A document for which special provision for copy has been made by statute		
	M.VI. 43, 45, 57, 31, 37, 35. R. 65. S. 163.		

**Oral Evidence.**

Statements made by witnesses on oath.

**Documentary Evidence.**

Documents produced to the Court.

**Direct Evidence**

Is the statement of a witness who has seen or otherwise observed the facts in question.

**Indirect Evidence**

Is the testimony of certain facts from which the facts in question may be inferred or deduced.

**Primary Evidence**

**M. VI. 43.** Is the best evidence which can be produced which the nature of the case admits of—*i.e.* that of a man who actually saw the offence or crime committed.

**Secondary Evidence.**

Only to be used when the best is unattainable ; such would be the deposition of a witness who, it had been proved, could not attend through death or illness.

**Facts not Requiring Proof.**

**M. VI. 10.** Certain facts are assumed to be judicially known,  
**R.P. 74.** such as :

1. Acts of Parliament.
2. Military Regulations.
3. Facts which may reasonably be supposed to be known professionally by an Officer or soldier.

**Burden of Proof.**

**M. VI. 9.** In every case other than the above the burden of proof rests on him who affirms a fact—*i.e.* the substance of the charge has to be proved step by step by him who makes the charge.

**Presumptions.**

These shift in some cases the burden of proof.

M.VI. 14.

The following are legal presumptions :

**1. Criminal Intent.**

If a man does an unlawful act it is presumed he meant to do it. (Shifts burden.)

**2. Theft.**

If stolen property is found in a man's house a guilty knowledge is presumed. (Shifts burden.)

3. That a man is innocent until he is proved guilty.

4. That all things necessary have been done—*i.e.* that a soldier under trial has been legally attested.

5. That everyone is acquainted with the law.

6. If an injurious action has been done malice is presumed. (Shifts burden.)

7. Child born in wedlock is presumed to be legitimate.

8. A letter properly posted is presumed to have been received.

9. A person not heard of for seven years is presumed to be dead.

Refer to table on p. 43.

**Rule of Relevancy.**

The evidence must be confined to the points at issue.

M.VI. 16.

**Offences connected.**

When several offences are so connected as to form part of one transaction, evidence of one is admissible in proof of another. M.VI. 21.

**Facts showing Intention.**

Are admissible provided they do not refer to the general character or disposition of the prisoner. M.VI. 22.

**Facts showing Motive.**

- M. VI. 25.** Always admissible, such as the following case. A prisoner is being tried for murder; evidence may be received that he held an insurance policy on the murdered man's life.

**Conspiracy.**

- M. VI. 26.** Statements referring to any other conspirators as regards acts in furtherance of the common cause are evidence against these other conspirators.

**The Best Evidence.**

- |                             |   |                        |
|-----------------------------|---|------------------------|
| One Witness, M. VI. 45      | } | Read these paragraphs. |
| Documentary, M. VI. 31.     |   |                        |
| Depositions, M. VI. 57      |   |                        |
| Public Documents, M. VI. 37 |   |                        |

**Copies.**

- |                                  |   |                        |
|----------------------------------|---|------------------------|
| Sec. 163                         | } | Read these paragraphs. |
| R.F.A. 24                        |   |                        |
| Sec. 164, 165                    |   |                        |
| Sec. 72, 73                      |   |                        |
| For 2, 3, 4, 5, 6, 7, see M. VI. |   |                        |
| 35                               |   |                        |

**Hearsay, M. VI. 46.****Dying Declarations.**

- M. VI. 49.** In order to be admissible must have been made when the witness believed he was in actual danger of death, and had given up all hopes of recovery.

Against own interests, M. VI. 55.

**Res Gestae.**

- M. VI. 53.** The crime or offence under investigation. Statements made form part of *Res Gestae* when they are made immediately after, or as the result of the offence under investigation.

**Public Documents.**

Note summary of evidence is not admissible unless **M.VI.60** prisoner pleads guilty.

**Opinion.**

Identity, **M. VI. 68.**

**M.VI. 63.**

Conduct—*i.e.* a witness may swear that the prisoner was, in his opinion, drunk.

Thus evidence may be produced to show what the prisoner's bearing or attitude was before or after the alleged offence.

**Confessions.**

Are only relevant when voluntarily given.

**M.VI. 73.**

It is not voluntary when obtained by means of a threat, inducement, or promise from a person in authority, who held out a hope that confessor would escape some effects of the charge. **M.VI. 75, 76, 77.**

When the person referred to above is not in authority—*i.e.* is not in a position to carry out his threat or promise—the confession is voluntary.

An involuntary confession, though not evidence, may be proved. **M.VI. 78, 81.**

## CHAPTER VII.

## COURTS-MARTIAL.

ELIGIBILITY—QUALIFICATION—WARRANTS—GENERAL COURT-MARTIAL—CONVENING AUTHORITY—COMPOSITION—RANK OF PRESIDENT—POWERS OF PUNISHMENT—AS TO OFFENDERS—AS TO OFFENCES—CONFIRMING AUTHORITY—SPECIAL CONFIRMATION—DITTO DISTRICT COURT-MARTIAL—DITTO REGIMENTAL COURT-MARTIAL—FIELD GENERAL COURT-MARTIAL.

**Eligibility.**

Sec. 50.  
R.P. 19.

A member is not eligible unless he is :

1. A Commissioned Officer.
2. Has sufficient rank.
3. Has sufficient service.
4. Is subject to Military Law.

**Qualification.**

Sec. 50  
(3).

An Officer is disqualified from sitting on a Court-Martial if he is :

1. The convening Officer (except Field General Court-Martial).

R.P. 19.

2. Investigating Officer (includes (1) the Company Commander who investigated the case ; (2) the Officer who took the summary of evidence).

3. Prosecutor.
4. Witness for prosecution.
5. Commanding Officer of the accused.
6. Member of the Court of Inquiry which investigated the case.
7. Has a personal interest.

Having discussed the methods of punishment other than by Court-Martial, and the more serious crimes, witnesses, and evidence, we now proceed to the subject of Courts-Martial themselves.

There are three ordinary kinds of Court-Martial.

1. General Court-Martial, the equivalent Civil Court being the High Courts of Justice.

2. District Court-Martial, the equivalent Civil Court being the Quarter Sessions.

3. Regimental Court-Martial, its equivalent Civil Court being the Petty Sessions.

4. The exceptional Court, which has no civil equivalent—*i.e.* Field General Court-Martial.

Every Court-Martial must be (herein Courts-Martial differ from Civil Courts) :

- (a) Convened by an authorised authority.
- (b) Composed of a certain minimum of members.
- (c) Members must be of a certain rank.
- (d) Has only certain powers which are laid down.
- (e) Sentence must be confirmed by a special authority.

In the following pages each type of Court is dealt with separately from beginning to end to prevent confusion.

As the authority of all convening, etc., authorities, except that of a Regimental Court-Martial, is a 'Warrant,' the powers embodied in these Warrants may be conveniently given here.

Refer to M. pp. 38, 52. Sec. 179, 122, 123.

A Warrant is a document signed by the Secretary of State for War, giving the holders of certain appointments the following powers.

They are not personal.

## WARRANTS.

Issued to	Gives power to	Remarks
Commander-in-Chief in India	Convene and confirm all Courts-Martial. Appoint Judge-Advocate	
General Officers Commanding, abroad	Convene and confirm all Courts-Martial. Appoint Judge-Advocate	But must refer to Commander-in-Chief (in India) or the King (elsewhere) sentences of death, penal servitude, cashiering or dismissal. Can delegate their powers for General Courts-Martial
General Officers Commanding-in-Chief at home and General Officers Commanding at home	Only convene any Court - Martial, confirm District Courts - Martial or Regimental Courts - Martial	Confirmation of General Courts-Martial by King. Cannot delegate powers for General Courts-Martial but can for District Courts-Martial or Regimental Courts-Martial
Ditto in the Field	Convene and confirm	

## GENERAL COURT-MARTIAL.

## Convening Authority.

Sec. 122,<sup>1</sup>  
48, 179.

(a) His Majesty the King.

(b) An Officer holding a warrant to convene General Courts-Martial from H.M. the King.

M. V. 20,  
22.

(c) An Officer to whom his authority has been delegated.

This Officer may not be below the rank of Field Officer, except in very rare cases, when a Captain may hold the power (see Sec. 122).

## Composition.

Sec. 48.  
R.P. 19.

(a) In the United Kingdom, India, Malta, Gibraltar—nine members.

(b) Elsewhere—five members.

Members may not have less than three years' service ;  
five of them must not be below the rank of Captain.

### Rank of President.

(a) The President should be a General.

K.R. 578.  
Sec. 48.

(b) Otherwise a Field Officer.

(c) In no case below the rank of Captain.

### Powers of Punishment.

Death.

Sec. 44,  
48, 137.

Penal servitude.

Imprisonment.

Cashiering (Officer).

Forfeiture of rank.

Severe reprimand.

Reprimand.

Stoppage of pay.

Plus what lesser Courts can give.

### On Active Service.

1. Field punishment.<sup>1</sup>

Sec. 44  
(5) (6).

2. Forfeiture of pay.

### As to Offenders.

Anybody subject to Military Law.

### As to Offences.

Any offences mentioned in the Army Act except that the five offences of Sec. 41.

Treason,

Treason-felony,

Murder,

Manslaughter,

Rape,

can never be tried by a Court-Martial in the United Kingdom. Elsewhere—only on active service ;

Or Gibraltar ;

<sup>1</sup> For purposes of commutation comes next below Detention.

Or out of H.M. Dominions ;  
 Or if within H.M. Dominions, only if more than 100 miles from a competent Civil Court.

### Confirming Authority.

Sec. 54,  
122.

Refer to table of warrants.

(a) At home—the King.

(b) Abroad—by an Officer holding a warrant from H.M. the King (not below the rank of Field Officer, except in very rare cases).

### Special Confirmation for the following :

Sec. 54.

ANYWHERE, sentence on an Officer of  
 Death,  
 Penal servitude,  
 Cashiering,  
 Dismissal,

must be confirmed, if in India by the Commander-in-Chief, elsewhere by H.M. the King.

### In Colony.

Death not on active service  
 Penal servitude for civil offence } by Governor.

### In India.

Death for treason or murder not on  
 active service  
 Penal servitude for civil offence } by the Viceroy.

### Sanction by Civil Authorities is not required :

Anywhere on active service for a sentence of death.

In India for death and penal servitude for military offences.

In Colonies for penal servitude for military offences.

M. V. 97. *A refusal to confirm would be justified in the following cases :*

Sec. 47,  
48, 50, 51,  
52, 54. 1. If the provisions as to assembly and constitution have been contravened.

2. If the charge or finding is bad in law. R.P. 34,
3. If a plea to jurisdiction or in bar of trial improperly overruled. 36, 56.  
M. V. 5.
4. Defence unduly restricted.
5. If the proceedings have deviated from Rules of Procedure, causing injustice.

### Custody of Proceedings.

Kept in Judge-Advocate's Office for seven years and then destroyed. R.P. 98, 99, 121.

GENERAL NOTES.—For the trial of an Officer, members should be of equal or superior rank to prisoner.

For the trial of a Commanding Officer, as many members as possible should have held a similar position.

For the trial of a Subaltern not more than *two* members should be Subalterns.

Sec. 124, 165.  
R.P. 21.  
R.P. 20  
(B).  
K.R. 578.

## DISTRICT COURT-MARTIAL.

### Convening Authority.

Same as General Court-Martial.

Must not be below the rank of Captain.

Sec. 48,  
123, 179.  
M.V. 20,  
22.

### Composition.

Anywhere, three members.<sup>1</sup>

No member to have less than two years' service.

Not more than one member to be a Subaltern, if three. K.R. 576.

Sec. 48.

### Rank of President.

Field Officer.

Captain, if no Field Officer available.

In rare cases (on board ship) a Subaltern, but not for trial of a Warrant Officer.

K.R. 558.

<sup>1</sup> For the trial of doubtful or complicated cases the Court should consist of five or more members. K.R. 576.

**Powers of Punishment.**

- Sec. 44.     1. Imprisonment, hard labour—two years.  
               1a. Detention—two years.  
               2. Discharge with ignominy.<sup>1</sup>  
               3. Forfeitures.  
               4. Plus what the lesser Court can give.

**On Active Service.**

1. Field punishment.  
 2. Forfeiture of pay.

**As to Offenders.**

- Sec. 182.     A person subject to Military Law of any rank up to but not including a Warrant Officer.

It can try a Warrant Officer, but can only sentence him to :

1. Dismissal.  
 2. Reduction to a lower class or place on his list.  
 3. Reduction to a lower grade.  
 4. Reduction to the ranks (if originally a soldier).  
 5. Forfeitures, fines, and stoppages.

**As to Offences.**

- Sec. 41.     Same as General Court-Martial.

Sec. 54,  
122, 123.     **Confirming Authority.**

R.P. 98a,  
121.     Same as General Court-Martial (b).

Sec. 124,  
165.     **Custody of Proceedings.**

R.P. 99.     Kept in Judge-Advocate's Office for three years.

**REGIMENTAL COURT-MARTIAL.**

Sec 47.     **Convening Authority.**

- R.P. 129.     (a) Any Officer authorised to convene the higher Courts.

<sup>1</sup> Imprisonment, not Detention, must be given if it is desired to discharge a man with ignominy.

(b) A Commanding Officer not below the rank of Captain.

(c) An Officer in command of two or more detachments *not below the rank of Captain*.

(d) On board a ship a Commanding Officer of any rank.

### Composition.

Three members.

Sec. 47.

Members not to have less than one year's service, and K.R.  
to have served under instruction at least 25 times.

### Rank of President.

A Captain, except :

Sec. 47.

1. On board ship (not in commission).
2. On the line of march.
3. When a Captain is not available.

In all cases where a President of less than the customary rank is appointed the fact should be stated in the order convening the Court.

### Powers of Punishment.

Detention—42 days.

Sec. 47,  
181, 183.

Reduction.

Forfeiture of seniority of rank.

Fines.

Stoppages.

Dismissal of a Volunteer.

Reduction to lower grade of pay of schoolmaster.

### On Active Service.

1. Field punishment.
2. Forfeiture of pay.

### Powers as to Offenders.

Cannot try persons not belonging to His Majesty's forces, and by K.R. 438 should not try a N.-C. Officer above the rank of Corporal (except on board ship in commission).

K.R. 438  
Sec. 184.

**As to Offences.<sup>1</sup>**

**K.R. 487, 550.** Should only try offences which can be dealt with summarily by a Commanding Officer.

**Confirming Officer.**

**Sec. 47.** Same as convening Officer.

**Custody of Proceedings.**

**R.P. 98 (B).** Proceedings are kept with the Regiment until the next Brigade General's Inspection, after which they are sent to the officer i/c. records and kept for a total period of three years, inclusive of the time they have been kept at the Regimental headquarters.

**FIELD GENERAL COURT-MARTIAL.**

This Court is meant to meet cases where it is not practicable to convene ordinary General Courts-Martial and when—as on active service—it is necessary in the interests of discipline that cases of in-discipline should be dealt with without delay.

**Convening Authority.****Not on Active Service.**

**Sec. 49. R.P. 105.** The Officer commanding a detachment beyond the seas, where an offence has been committed by a person under his command against property or the person of an inhabitant.

**On Active Service.**

**Sec. 49.** A Commanding Officer or Officer in immediate command of troops for an offence committed by anyone subject to Military Law.

**NOTE.**—Not on active service a convening Officer must have been authorised if within His Majesty's dominions by his General Officer Commanding.

See Manual, p. 462, last paragraph of notes, and p. 313, second paragraph of notes.

In all cases it must be shown that it was not practicable to convene an ordinary General Court-Martial, or that it was not practicable to delay.

Specially is this necessary when the convening Officer is not a Commanding Officer.

### **Composition.**

Three members.

If three are not available in the opinion of convening Officer, and delay is impracticable, then two may sit.

The convening Officer may appoint himself President.

R.P. 106,  
107.

### **Rank of President.**

Any rank, but should not be below Captain.

Members should not have less than one year's service. Where possible, should have three years' service.

R.P. 106,  
107.

### **Powers of Punishment.**

If consisting of three members—same as General Court-Martial. If two members only—imprisonment two years' hard labour—Field punishment. A sentence of death requires a unanimous vote.

R.P. 118.  
Sec. 49.

### **Confirming Authority.**

#### **Not on Active Service.**

1. Any Officer who has power to confirm ordinary Courts-Martial. No other Officer can confirm. R.P. 120.

2. Confirmation of sentence of death must be reserved for Commander-in-Chief of Army in the Field.

3. Confirmation of death or penal servitude must be reserved for an Officer having power to confirm a General Court-Martial.

Any Officer may mitigate, remit, or commute a punishment to one which he has power to confirm.

4. An Officer not having power to convene or confirm General Courts-Martial or District Courts-Martial can only confirm a sentence within the limit of power of a Regimental Court-Martial.

**On Active Service.**

Subject to the above restrictions, any Officer in immediate command can confirm a sentence up to the limit of his powers.

**Custody of Proceedings.**

Same as District Court-Martial (three years Judge-Advocate General's Office).

**GENERAL NOTES :**

**App. 2.** 1. The form of proceedings laid down to be followed as far as possible.

**App. 2.** 2. The Court if necessary can carry out proceedings  
**R.P. 107.** without any writing, but in this case the Provost-Marshal, President, or promulgating Officer must keep a record, making a report to the General Officer Commanding, who has power to convene General Courts-Martial.

3. An objection to a member, if supported by *one* member, must be carried.

4. In the case of an *equality* of votes on the finding the accused is *acquitted*.

## CHAPTER VIII.

### THE SPECIAL DUTIES OF VARIOUS MEMBERS OF AND PERSONS PRESENT AT A COURT-MARTIAL.

PRESIDENT — PROSECUTOR — JUDGE-ADVOCATE — CIVILIAN  
COUNSEL.

#### The President is Responsible :

1. That the trial is conducted with due decorum. R.P. 59.
2. That the accused has a fair trial.
3. That the members as detailed are present.
4. That the Court makes proper inquiries as to its R.P. 22,  
legal constitution. 23.
5. That the accused is amenable to trial.
6. That the charge is valid.

#### Also :

7. He is the mouthpiece of the Court.
8. Calls witnesses when necessary.
9. Administers oaths to members.
10. Writes proceedings. R.P. 95,
11. Is responsible for safe custody of proceedings 96, 97.  
(latter two only if there is no Judge-Advocate).
12. Must initial all alterations or erasures.
13. Signs proceedings. R.P. 45,
14. Compares summary of evidence with the evidence 50.  
being given before the Court. Sec. 53.
15. Collects votes of members.
16. He has a casting vote in every case after the arraignment, except on the finding or a sentence of death.
17. Summons civil witnesses.

**The Prosecutor.**

- Sec. 50. 1. The prosecutor may not be the convening Officer and *vice versa*.
2. The prosecutor may not be a member of the Court.
3. The prosecutor may not act as Judge-Advocate.
- R.P. 106, 107. 4. The prosecutor may not confirm the proceedings.
- R.P. 120 (C). 5. He is not sworn unless he gives evidence.
- R.P. 25. 6. He cannot be objected to by the accused.
- R.P. 103. 7. If he is called as a witness for the prosecution he should give his evidence before that of any other witness.

**His Duties.**

- R.P. 60. 1. To see that justice is done and to behave impartially.
- K.R. 575. 2. He should not omit evidence which might show the innocence of the accused.
- R.P. 41. 3. He should not comment on the accused not giving evidence, but he may well comment on the accused giving evidence after the witnesses for the defence have been heard.
4. He should inform the President before the arraignment if the accused has elected to be tried instead of being summarily disposed of by the Commanding Officer.
- R.P. 14. 5. Warns accused for trial (at least 18 hours before Regimental Court-Martial and 24 hours before higher Court is opened).
6. Asks accused for his list of witnesses.

The following documents are given to the accused when he is warned :

1. Copy of summary of evidence.
2. Charge-sheet.
3. Names of Officers composing the Court.
4. Notice of joint trial, if the man is to be tried jointly.
5. List of witnesses.

- R.P. 88. NOTE.—A Counsel may appear as prosecutor before General Courts-Martial and District Courts-Martial, but not before Regimental Courts-Martial.

These must be :

In England or Ireland—a Barrister.

R.P. 93.

In Scotland—an Advocate or Law Agent.

Elsewhere—anyone who holds a corresponding position.

### Judge-Advocate.

*Must* always be present at a General Court-Martial.

R.P. 101.

*May* be appointed to a District Court-Martial.

An Officer who is disqualified from sitting on a Court-Martial cannot act as Judge-Advocate.

R.P. 101.

He is sworn.

Sec. 52.

Once appointed, a Court cannot proceed unless he is present.

R.P. 27.

He cannot be objected to.

R.P. 25.

He remains present when the Court is closed.

R.P. 63.

He may be called as a witness for the defence, but not for the prosecution.

R.P. 77.

### His Duties.

1. Is the legal adviser of the Court, and must be impartial. R.P. 103.

2. Must inform President of any want of legality in the proceedings.

3. His information or advice must be entered in the proceedings if he or the Court wish it.

4. Must see that the accused does not suffer through ignorance or incapacity.

5. Swears the Court.

R.P. 26,

6. Sums up the case.

82.

7. Has power to summon witnesses not subject to

R.P. 42.

Military Law.

R.P. 78.

8. May examine or cross-examine witnesses through President.

R.P. 83,  
85.

9. Is responsible for custody of proceedings.

R.P. 96.

10. Signs the proceedings after the President, and transmits them to the confirming Officer.

R.P. 45,  
50.

**Civilian Counsel.**

R.P. 89,  
90, 92, 94.

If appointed (General Court-Martial or District Court-Martial only)—

1. Seven days' notice must be given on either side.
2. He takes the rights and duties of the person he represents.

## CHAPTER IX.

## PROCEDURE.

EXEMPTION FROM TRIAL—DUTIES OF CONVENING OFFICER—  
 ASSEMBLY OF COURTS-MARTIAL—PROCEDURE ON PLEA OF  
 GUILTY—DITTO NOT GUILTY—GROUNDS FOR CHALLENGE—  
 INCIDENTS OF TRIAL—SPECIAL PLEAS ON ARRAIGNMENT—  
 IN BAR OF TRIAL—AS TO CHARGE—ADJOURNMENTS—ARMY  
 FORM A9.

As a general rule a man cannot be tried twice for the same offence if he has once been tried by a Civil Court, a Court-Martial, or his Commanding Officer, except :

1. When the Court was illegally constituted.
2. Proceedings not completed.
3. When it has been dissolved before finding.
4. Or after the finding if it (the finding) was ' Guilty.
5. In the case of a finding of insanity which is not confirmed.
6. If plea in bar of trial upheld but not confirmed.

**A Military Court cannot Try—**

A man who has been sentenced by a Civil Court.

**A Civil Court can claim to Try—**

A soldier :

1. For a crime punishable by fine or imprisonment. Sec. 144,
2. Can order the removal from the Army of an apprentice under 21 years of age. 96, 97.
3. Can order the removal from the Army of an indentured labourer.
4. Can order the removal from the Army of a soldier Sec. 61.  
 for a fine, debt, or damage *over 30l.*

**A Soldier is not exempt from Trial by Civil Court—**

**Sec. 162.** Even if already tried by Court-Martial or punished by his Commanding Officer.

Offences against the Militia and Reserve Forces Act which are cognizable by civil *and* Military Law *cannot be tried by a Civil Court when*

It has been dealt with by a Military Court, unless the consent of the Commanding Officer of the battalion or district is given.

A Court-Martial can try any civil offence mentioned in the Army Act.

Note the restrictions on p. 51.

The procedure followed by Courts-Martial is the same whether they are General, District, or Regimental.

A copy of this form of procedure is added at the end of this chapter.

The application for a Court-Martial having been sent to the General Officer Commanding, accompanied by the documents mentioned at the end of Chapter III. :

The General Officer Commanding will convene a Court-Martial in District Orders.

The President only (and the Judge-Advocate if one is appointed) is mentioned by name.

**Duties of Convening Officer.**

- R.P. 17.** 1. He must satisfy himself that the charge discloses  
**K.R. 567.** an offence under the Army Act.
- R.P. 9.** 2. He may amend the charge-sheet, striking out minor charges if he thinks the evidence is insufficient to support them.<sup>1</sup>
- R.P. 78.** 3. Arranges that witnesses are ordered to attend.  
**K.R. 548.** 4. Decides on the nature of the Court.  
5. Issues order for assembly of Court.

<sup>1</sup> A copy of the charge-sheet, after approval by General Officer Commanding, is sent to the President, to the accused and to the prosecutor.

**Assembly of Court-Martial.**

The Officers being seated according to rank—

R.P. 22.

1. The order convening the Court is read and the names of the Officers composing it.

2. The charge-sheet and summary of evidence are laid before the Court.

3. The Court satisfy themselves as regards R.P. 22 and 23—*i.e.* :

(a) That it is properly convened.

(b) That the Officers detailed are present.

(c) That they are of proper rank, eligible and not disqualified.

(d) That the President is of sufficient rank.

(e) That the Judge-Advocate is duly appointed, and not disqualified.

(f) That the accused is amenable to Military Law, and to the Court as constituted. R.P. 23.

(g) That the charge-sheet discloses an offence under the Army Act.

Next :

R.P. 24.

The accused being present.

The names of the President and members are read out, and they severally answer to their names.

The accused is asked if he objects to be tried by any of them.

Sec. 52.

The Court is then sworn.

R.P. 30.

The accused is arraigned and asked to plead to the charge.

R.P. 81.

**Procedure on Plea of Guilty.**

R.P. 35,

1. The accused is warned as to the consequences of his plea. 37.

2. Care should be taken that the prisoner does not plead guilty to a lesser alternative charge to evade the consequence of one more serious.

3. Finding of guilty recorded.

M.V. 55.

- R.P. 46. 4. Sufficient evidence taken to determine sentence.  
 5. The accused is asked if he has any statement to make in mitigation of punishment.
- R.P. 37. 6. The summary of evidence is usually sufficient to decide punishment.  
 7. Statement in mitigation of punishment is heard, or written statement is handed in.  
 8. The accused's statement as to character is received together with the statements of any witness he may wish to call, including himself.  
 9. Evidence as to character is received from an Officer of the accused's own corps (usually the prosecutor).  
 10. The Court is closed to consider the sentence.

#### **Procedure on Plea of Not Guilty.**

(a) When the accused calls witnesses other than himself :

- R.P. 39. 1. The prosecutor makes an opening address.
- R.P. 84. 2. Evidence for the prosecution is taken (prosecutor's evidence first).
- R.P. 41. 3. The accused may make an opening address.  
 4. The accused may give evidence himself, and may call witnesses as to character and facts.
- R.P. 41. 5. The accused may make a second address.  
 6. The prosecutor may make a second address.
- R.P. 42. 7. The Judge-Advocate sums up.

#### **(b) When the Accused does not call Witnesses :**

- R.P. 39. 1. The prosecutor makes his opening address.  
 2. Evidence for prosecution is taken.  
 3. The accused may give evidence.
- R.P. 40. 4. Prosecutor makes second address.  
 5. The accused may make an address in his defence.
- M.VI.19 6. Evidence as to character, called by the accused, is taken.  
 7. Prosecutor may produce evidence of former convictions.
- R.P. 61. 8. Judge-Advocate sums up.

### Incidents of the Trial.

The accused, when he has heard the names of the **Sec. 51.**  
Officers composing the Court read out, may object to **R.P. 25.**  
the President or any member.

An objection to the President is considered first.

Objections to members are taken consecutively, commencing with the junior.

The accused may call witnesses to prove his objection.

These witnesses may be examined in the ordinary way **R.P. 83,**  
(this evidence is not on oath, the Court not having yet **84.**  
been sworn).

An objection to a member is carried if *half* the members **Sec. 51.**  
support it. The President has no casting vote.

An objection to the President is carried if *one-third* **Sec. 53.**  
vote in support of it.

The Officer objected to does not vote.

A vacancy thus caused amongst the members may be filled by the inclusion of a waiting member, but if the President is successfully objected to the Court must adjourn.

The convening Officer either appoints another member or convenes another Court.

### The usual Grounds for Challenge are—

1. That a member has a personal interest in the case. **R.P. 25.**
2. Is prejudiced against the accused.
3. Has expressed an opinion on the case.

Several accused persons may be tried together for an **R.P. 15,**  
offence they have committed collectively, but an accused, **71.**  
if the charge admits, may claim a separate trial on the ground that the evidence of another accused person is material to his defence.

### Special Pleas on Arraignment before Pleading to Charge.

(a) As to jurisdiction of Court, the following are the **R.P. 34.**  
usual grounds :

1. The Court is improperly constituted.

**R.P. 22.**

- Sec. 158.** 2. That he (the accused) is not subject to Military Law.  
**R.P. 28.** 3. That he is not amenable to that description of Court.

**(b) In Bar of Trial.  
 Grounds.**

- R.P. 36.** 1. That the offence has been previously dealt with by :  
 Civil Court.  
 Court-Martial.  
 Commanding Officer.  
 2. That it has been pardoned or condoned.  
**Sec. 161.** 3. That more than three years have elapsed since it was committed, or such less time as may be fixed by Civil Courts.

**As to Charge.**

- R.P. 32.** 1. That it does not disclose an offence under the Army Act.  
 2. That it is not in accordance with the Rules of Procedure.

All these special pleas are decided in the usual way by vote.

If the plea is overruled the trial proceeds.

If carried, the Court adjourns, reporting to the convening Officer.

- R.P. 62:** NOTE.—If there is more than one charge-sheet, each charge-sheet is proceeded with separately, up to and including the finding.

**To Repeat.**

- R.P. 69.** Every question before a Court is decided by a majority of votes, the President having a casting vote. The following are the exceptions to the rule :

1. Challenge of President, carried if one-third vote for.
2. Challenge of member, carried if one-half vote for.
3. Finding, equality of votes acquits.
4. Sentence of death, only carried if two-thirds vote for.

The President has no casting vote in the following cases :

- (a) Sentence of death.
- (b) Finding.

### Adjournments.

#### Usual Causes are:

1. Court not satisfied as to its legal constitution. R.P. 14,
2. Has doubts as to its legal jurisdiction, amenability 22, 23, 33,  
of accused to trial, or accuracy of charge. 76, 79.
3. Accused not been properly warned.
4. Witnesses have been called without due notice to  
accused.
5. Everybody necessary is not present.
6. At request of accused to prepare his defence. R.P. 41,
7. At request of prosecutor to prepare his reply. 65.
8. A Court may adjourn to view a place, or to take the  
evidence of a sick witness, in which case the whole Court  
must go together with prosecutor and the accused.
9. If the President is from any cause absent. R.P. 65,
10. If a member is similarly absent and the Court is 66.  
thereby reduced below the legal minimum and there are R.P. 18.  
no waiting members.
11. If the accused is absent. Sec. 53.
12. If the Judge-Advocate is absent. R.P. 65,  
102.

#### The Accused may Plead in his Defence :

1. That the charge is not proved. M. VII.
2. Evidence of prosecution unworthy of belief.
3. That he had no criminal intent.
4. Insanity (which excuses from guilt).
5. That he acted under compulsion.
6. That his case has been previously dealt with.
7. That his trial is barred by limit of time.
8. That his offence was caused by misfortune or  
ignorance.

Army Form A. 9.

A

**\*Form of Proceedings for General, District and Regimental Courts-Martial.**

\* All printed matter not applicable to the particular Court being held should be struck out and initialed by the President.

Proceedings of a Court-Martial held at  
on the day of 19 by order of  
Commanding  
dated the day of 19  
President.  
Members.

, Judge-Advocate.

At            o'clock the Court opens.

Trial of\*

(1) The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The charge-sheet and the summary of evidence are laid before the Court.

The Court satisfy themselves as provided by Rules of Procedure, 22 & 23.

(2)

appears as prosecutor, and takes his place.

The above-named accused is brought before the Court.

appears as counsel for the accused.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

*Question by the President to the accused.*

Answer by  
accused.

Do you object to be tried by me as the President, or by any of the Officers whose names you have heard read over ?

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

\* Here insert No., Rank, full Name, Battalion, and Regiment, and Appointment (if any).

B

The President, Members, and Judge-Advocate are duly sworn.  
The following Officers under instruction are duly sworn.

Charge-Sheet.

(3) The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

*Instruction.  
If the accused  
has elected to  
be tried under  
Army Act,  
sec. 46 (8) the  
fact should be  
here recorded.*

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ?

*Question to the  
accused.  
Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ?

*Question.  
Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read ?

*Question.  
Answer.*

The accused having pleaded guilty to \_\_\_\_\_ charge , the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of ' Not Guilty,' the Court will not proceed upon the record of a plea of ' Guilty ' until after the finding on those other charges, such finding being recorded on Sheet E.

*Instruction.*

## C

## Proceedings on Plea of Not Guilty.

(5) The prosecutor makes the following address [hands in a written address, which is read, marked , signed by the President, and attached to the proceedings].

The prosecutor proceeds to call witnesses.

*First witness }  
for  
prosecution.*

being duly sworn, is examined by the prosecutor.

[Here evidence is recorded.]

*[The accused declines to cross-examine this witness.*

*His evidence is read over to the witness.*

*The witness withdraws.]*

*Second  
witness for  
prosecution.*

C 2

## D

The prosecution is closed.

## Defence

*Question to the accused.* Do you apply to give evidence yourself as a witness ?  
*Answer.*

*Question.* Do you intend to call any other witness in your defence ?  
*Answer.*

*Question.* Is he a witness to character only ? *Answer.*

(7) [If the accused gives evidence himself, but calls no other witness to the facts of the case, his evidence will now be taken on a separate sheet.]

(6 & 7) \*[The prosecutor addresses the Court upon the evidence for the prosecution (and the evidence of the accused) as follows :

(Hands in a written address, which is read, marked , signed by the President, and attached to the proceedings.)]

*Question to the Accused.* (6, 7 & 8) Have you anything to say in your defence ?  
*Answer.* The accused in his defence says :

[Hands in a written address, which is read, marked . signed by the President, and attached to the proceedings.]

---

*Instruction.* \* If the accused calls other witnesses to the facts of the case, whether he himself gives evidence or not, this paragraph will be struck out, and the course laid down in R.P. Appendix II. (8) will be followed.

D 2

The accused calls the following witnesses \*[as to character].

being duly sworn, is examined by the  
accused.

*First witness  
for the defence  
[\*as to character].*

---

\* If witnesses are called, excepting as to character, these words are to be struck out.

## C

## Proceedings on Plea of Guilty.

\* To be struck out in case no plea of 'Not Guilty' has been proceeded with.

(4) \* [The Court having been reopened, the accused is again brought before it, and the charge to which he has pleaded 'Guilty' read to him again].

The accused  
is found Guilty of

\* The summary of evidence is read, marked , signed by the president, and attached to the proceedings.

*Question to the accused.*

Do you wish to make any statement in mitigation of punishment ?

*Answer.*

The accused in mitigation of punishment says :

[or hands in a written statement, which is read, marked signed by the President, and attached to the proceedings.]

*Instruction.*

\* If there is no summary of evidence, sufficient evidence to enable the Court to determine the sentence, and to acquaint the confirming officer with the facts of the case, will be taken on a separate sheet in the same manner as on a plea of 'Not Guilty.'

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of 'Guilty,' the Court shall alter the record, and enter a plea of 'Not Guilty,' and proceed with the trial accordingly.

D

Do you wish to give evidence yourself or to call any witnesses as to character ? *Question to the accused.*

*Answer.*

*Evidence as to character.*

## E

Finding.<sup>1</sup>

(10) The Court is closed to consider their finding.

(10 & 11) The Court find that the accused

### PROCEEDINGS ON CONVICTION *before Sentence.*

(12) The Court being reopened, the accused is again brought before it.

*Evidence of  
character, &c.*

is duly sworn.

*Question by the  
President.*

Have you any evidence to produce as to the character and particulars of service of the accused ? *Answer by the witness.*

The above statement [with the schedule of convictions] is read, is marked , signed by the President, and annexed to the proceedings.

*Question by the  
President.*

Is the accused the person named in the statement which you have heard read ? *Answer by the witness.*

*Question.*

Have you compared the contents of the above statement with the regimental books. *Answer.*

*Question.*

Are they true extracts from the regimental books, and is the statement of entries in the conduct book a fair and true summary of those entries ? *Answer.*

Cross-examined by the accused.

The Court is closed to consider their sentence.

---

<sup>1</sup> To be omitted, except in cases of a plea of Not Guilty having been proceeded with.

**F**

**Sentence.**

The Court sentence the accused.

*Sentence.*

## CHAPTER X.

## FINDING, REVISION, CONFIRMATION.

SPECIAL FINDINGS — ALTERNATIVE CHARGES — SENTENCE —  
 CONFIRMATION OF PROCEEDINGS—REVISION—DITTO AFTER  
 PROMULGATION—SPECIAL CONFIRMATION—PRISONS.

NOTES.—A Military Court differs from a Civil Court in the following respects :

1. The finding need not be passed by a unanimous vote.
2. The accused can be simultaneously found guilty of several charges.
3. A special finding (explained hereafter) is permissible.
4. The finding may have to be revised by the same Court.
5. A finding of guilty must be confirmed.
6. A finding of guilty is not made public until after it has been confirmed.

**R.P. 43.** The Court having heard all the evidence on both sides, proceeds to deliberate on the finding.

For this purpose the Court is closed.

The Judge-Advocate remains present.

The following principles of Law may be considered :

1. By English law a man is assumed to be innocent until he is *proved* to be guilty.
2. That a Court must decide according to *the evidence which has been produced* only.

**Sec. 54.** If the accused is found not guilty on all the charges  
**R.P. 45.** before the Court, he is at once informed and released.

If he is found guilty on some, and not guilty on others, none of the findings are disclosed until after confirmation.

## Special Findings

Are recorded when, for the reasons given below, a finding is come to which is not exactly in accordance with the charge. R.P. 44.

1. When the substance of the charge is proved but there is a discrepancy as to particulars.

## 2. Alternative Charges—

*i.e.* when the Court is not certain which of the alternative charges they should convict on they find that the facts stated in the charge have been proved, but doubting which charge these facts at Law come under, leave it to the confirming Officer to decide. R.P. 55,  
44 f.

3. When the accused is found to be insane. R.P. 57.

4. In the case of cognate offences, for instance : Sec. 56.

(a) A man charged with stealing or embezzlement may be found guilty of either or of fraudulently mis-applying.

(b) A man charged with desertion may be found guilty of attempting to desert or of absence without leave. M. p. 483.

(c) A man charged with an offence involving a certain amount of punishment may be found guilty of the same offence involving a lesser punishment—*i.e.* on active service and not on active service is an example.

It may here be repeated that charges are divided into two parts :

(a) Statement of the offence in the words of the Army Act.

(b) Statement of the particulars.

Special findings refer as a rule only to (b).

Those allowed in regard to (a) are only such as are referred to in Sec. 56 and R.P. 44 F.

As soon as a decision is come to as regards the finding the Court re-opens. R.P. 46.

The Court takes evidence as to character in order to determine the sentence.

A schedule of convictions and statements as to character, etc., is produced to the Court.

A general statement as to bad character is not permissible, but a similar statement as to good character is.

The Court now proceeds to consider the sentence ; the guiding rules for sentencing will be found in K.R. 583. Put shortly they are :

For :

- |   |   |                          |
|---|---|--------------------------|
| (a) First desertion in first six months           | } | 28 days.                 |
| (b) Offences punishable by Commanding Officer     |   |                          |
| (a) Previous conviction or aggravated of above    |   | Add 7-28 days.           |
| (a) Above repeated or aggravated                  | } | 56-112 days.             |
| (b) Striking                                      |   |                          |
| (c) Grave disobedience                            |   |                          |
| (d) Desertion                                     |   |                          |
| (e) Theft   |   |                          |
| (a) Above repeated or aggravated                  | } | 113 days to 6 months.    |
| (b) Against Sec. 32                               |   |                          |
| (a) Third or fourth case of most serious of above | } | One year.                |
| (b) Disgraceful conduct                           |   |                          |
| (a) Offences of a disgraceful nature              | } | Discharge with ignominy. |
| (b) Or under Sec. 32                              |   |                          |

The Court votes as laid down on p. 67, beginning with the junior.

**Sec. 68.** If a soldier is already undergoing imprisonment or detention, the new sentence runs concurrently.

**K.R. 584.** No soldier is to do more than two consecutive years of  
**Sec. 68.** imprisonment or detention upon one or any number of sentences.

This is, however, broken by one day of escape or release from prison or detention.

For forms of sentence see Army Act, Appendix II.

NOTES.—A Court cannot order the forfeiture of the R.W. 580.  
V.C., or an Order which is the personal gift of H.M. the R.P. 46.  
King or of a Foreign Power.

All others they can.

Imprisonment begins on the first moment of the day R.P. 6.  
on which the President first signs the Proceedings.

The proceedings of the Court are now sent to the confirming Officer.

The confirming Officer may either :

Sec. 16,  
56, 57.

(a) Confirm, and in so doing—

mitigate	}	sentence
remit		
commute		
or suspend		

(b) Partially confirm.

(c) Refuse to confirm.

(d) Send back finding or sentence, or both, for revision.

He cannot commute a sentence of cashiering passed on an Officer for scandalous conduct.

Mitigation : Less of same kind of punishment.

Remission : Taking out part of sentence.

Commutation : Changing description of sentence.

For the above, detention comes below imprisonment so long as the period is equal to or less than the imprisonment given.

The power of commuting to general service is restricted to the following :

Sec. 83(7),  
57 101.

### In England :

The Army Council.

The Adjutant-General.

R.P. 127,  
128.

### In India :

Commander-in-Chief.

G.O.C. Division or detached Brigade.

A.O. 84.  
April 1908

**Elsewhere :**

General Officers Commanding-in-Chief.

**Revision—**

May be ordered for any of the following reasons :

Sec. 54. 1. For the revision of the finding (other than that of  
R.P. 52. acquittal) on account of informality.

Sec. 54. 2. For the revision of the sentence on account of  
R.P. 51, informality.  
56.

NOTE.—1. Revision can only be ordered once.

2. A sentence can never be increased on revision.

3. A finding of acquittal cannot be revised.

After confirmation the sentence is promulgated—*i.e.* appears in orders and is read out on parade.

**After Promulgation—**

Sec. 57 (2) Only the following persons can alter or deal with any  
& Note. irregularities in the proceedings :—

**At Home :**

Army Council.

General Officers Commanding in Chief.

General Officers Commanding Divisions.

Any prescribed authority.

**In India :**

Commander-in-Chief.

Other Officers with the approval of the Viceroy.

**Colony :**

The Commander-in-Chief of that Colony.

**Some Sentences require Special Confirmation.**

Sec. 41, 54.	Death	}	on an Officer
	Penal servitude		
	Dismissal		

must be confirmed :

**In India :**

By the Commander-in-Chief.

**Elsewhere :**

By the King.

Death, not on active service, and penal servitude for a civil offence passed in a Colony must be approved by the Governor. Sec. 54 (6 & 8).

### Death—

Not on active service, for treason and murder, and penal servitude for civil offence passed in India, must be approved by the Governor-General.

After promulgation, if the sentence is one of penal servitude or imprisonment, the soldier under sentence is committed to one of the prisons shown as follows :

### IMPRISONMENT AND CUSTODY.<sup>1</sup>

Public Prisons.		Detention Barracks.	Branch Detention Barracks.	Barrack Detention Rooms.
Civil.	Military.			
<p>Convicts, <i>i.e.</i> men sentenced to penal servitude. These are also sentenced to be discharged with ignominy.</p> <p>K.R. 607.</p>	<p>For offences under Sec. 17, 18 (4 &amp; 5), 41. These are not necessarily sentenced to be discharged with ignominy.</p>	<p>1. For breach of discipline. 2. Sentences above 14 days. 3. If no branch d. barracks available for sentences of less than 14 days.</p> <p>K.R. 645.</p>	<p>Sentences up to 14 days (a detention barrack may be used if it is nearer).</p>	<p>For sentences up to 168 hours detention.</p> <p>K.R. 607. A.O. 233 05</p>

If sentenced to more than twelve months' imprisonment or detention when abroad soldiers are transferred to the United Kingdom to undergo sentence, unless the General Officer Commanding thinks this unnecessary. Sec. 131.

<sup>1</sup> Amended by Army Annual Act, 1906 and 1907.

K.R. 624. Soldiers embarked for a foreign station cannot be recommitted on arrival, and are released on embarkation if undergoing less than 21 days, otherwise on disembarkation.

Soldiers embarked from a foreign station for England can be recommitted.

## CHAPTER XI.

## PUNISHMENTS.

TRANSFER AS PART OF—FORFEITURES—FINES—STOPPAGES—  
SUMMARY PUNISHMENT—COMBINED PUNISHMENTS.

The powers of punishments of the Commanding Officer and the various Courts-Martial have already been referred to.

The following additional notes are added :

1. A Court-Martial has nothing to do with the carrying out of a sentence. **M.V. 100.**

This is done by the confirming Officer.

Abroad a Provost-Marshal may be ordered to do the actual carrying out of a punishment. **Sec. 74.**

2. An Officer may be sentenced to forfeit seniority of rank in the Army or in his regiment, but he may not be reduced from one rank to another. **R.P. 42.  
App.2, 10.  
Sec. 180.**

3. A soldier sentenced to death would be hanged for a civil offence and shot for a military offence. **M. p. 576.  
Sec. 41.**

4. When a soldier has been sentenced to penal servitude he is sent to a penal servitude prison, and comes under the authority of the Home Secretary (carries discharge with ignominy).

5. Imprisonment or detention over twelve months is undergone in the native country of the offender—*i.e.* a British soldier if sentenced abroad would be sent to the United Kingdom. **Sec. 131.**

6. The wording of awards of imprisonment or detention will be as follows : **K.R. 585.**

(a) Up to but not including six months will be awarded in days.

(b) Terms of exactly one or two years in years.

(c) All other terms will be awarded in months, or in months and days.

Sec.83(7). 7. The circumstances under which a soldier may be transferred from one Unit to another without his consent :—

(a) A soldier who has been guilty of desertion (not exempted under Sec. 161) or who has been sentenced by Court-Martial to more than three months' imprisonment or detention may have such punishment commuted to general service.

K.R. 527. (b) A soldier convicted of fraudulent enlistment may be sent to serve with his former corps.

Sec. 83. (c) Within three months of enlistment if enlisted for general service.

(d) When his unit is abroad and is ordered home, and he has more than two years' unexpired service.

(e) When his unit is at home and is ordered abroad, and he has less than two years' unexpired colour service.

(f) When invalided from abroad or is medically unfit to go abroad (but in this case he would usually be transferred to the Reserve).

### Forfeitures.

R.W.  
1065, 1043,  
1022, 1160. A soldier can be awarded any of the following forfeitures :

1. All or any past service towards pension.
2. All or any past service towards gratuity.
3. All or any past service towards good conduct badges.
4. Medals (except V.C.), together with annuity attached to them.

Forfeited medals are sent to O.C. records.

Medals forfeited for other reasons than desertion and fraudulent enlistment can be restored when a soldier has been three years ' clear.'

**FORFEITURES ON CONVICTION.**

Offence.	Forfeits.	
Of desertion or fraudulent enlistment	<ol style="list-style-type: none"> <li>1. All prior service</li> <li>2. Pension (service towards)</li> <li>3. Pay for time absent and awaiting trial</li> <li>4. Gratuity</li> <li>5. Good conduct badges</li> <li>6. Medals, &amp;c., other than V.C. (liable to general service)</li> </ol>	Sec. 79, 161. R.W. 1062, 1023, 1042, 1158, 902, 1064.
Confession of desertion or fraudulent enlistment and trial dispensed with (see Sec. 73, K.R. 542)	Ditto	
Disgraceful conduct, Sec. 17, 18 (or by Civil Court exceeding six months' imprisonment)	<ol style="list-style-type: none"> <li>1. All medals, &amp;c.</li> <li>2. Good conduct badges</li> <li>3. Gratuity</li> </ol>	

**Forfeiture of Pay.**

A soldier forfeits pay for :

1. Every day of absence without leave, desertion, or prisoner of war.

2. Every day of confinement under sentence.

3. Every day of confinement on a charge of which he is afterwards convicted, except when not committed to prison on day of award.

4. Every day of confinement on charge of absence without leave, if awarded imprisonment or detention by Commanding Officer.

5. For every day in hospital caused by an offence.

Sec. 138.  
R.W. 902.

R.P. 6a,  
note.

**Fines.**

A Court can sentence a soldier to a fine of 1*l.* for drunkenness. Sec. 19.

Under this section, Courts can fine up to the limits laid down for ordinary criminal law. Sec. 41.

**Stoppages.**

**Sec. 138.** Stoppages are only ordered to make good losses in  
**K.R. 565.** public clothing, etc., and the award of a Court, if it is found to exceed the value of losses, is only enforced up to that value.

The only exception to this is when offenders have been convicted collectively of destroying public property, when each may be ordered to be put under stoppages for the full value of the whole property destroyed.

**Sec. 138.** A soldier may be put under stoppages :

1. For losses incurred as ordered by Court-Martial.
2. For losses incurred as ordered by Commanding Officer.
3. To pay a fine awarded by Court-Martial, Commanding Officer, or Civil Court.

**R.W.914.** 4. To reimburse to the public expenses incurred by his irregularly enlisting in the Militia.

5. To contribute to the maintenance of wife and child.

A soldier must in all cases be left a sum of at least *1d.* per diem.

**Sec. 140.** NOTE.—Stoppages may be made from ordinary pay or gratuity, but money in the Savings Bank cannot be touched.

**Field Punishment.**

**Sec. 44.** This special punishment can be awarded :

**M.III.37.** On active service,

For any offence,

and only on a private, if awarded by C.O.

**Field Punishment, No. 1.<sup>1</sup>**

**M. p. 598.** Total award, three months.

A man may be fettered or tied in a fixed position to a fixed object, but

- (a) Not for more than two hours a day.
- (b) Not for more than three days out of four.
- (c) Not for more than 21 days in all.

<sup>1</sup> A Commanding Officer can award this punishment on active service up to twenty-one days.

In addition he may be given hard labour or employment, as if undergoing ordinary imprisonment or detention.

**Field Punishment, No. 2.<sup>1</sup>**

Total period, three months.

A man may be fettered or kept in irons, but may not be tied in a fixed position to a fixed object.

In no case is a permanent injury to be done or a permanent mark left.

**Combined Punishments.****An Officer—**

Sentenced to be cashiered may also be sentenced to **Sec. 44.** penal servitude or imprisonment.

**An Officer—**

Sentenced to forfeit seniority of rank may in addition be reprimanded.

**A Soldier—**

Sentenced to penal servitude or imprisonment may in addition be sentenced to be discharged with ignominy.

**A N.-C. Officer—**

May be reduced to a lower grade or to the ranks, or to **Sec. 183.** forfeit seniority of rank in addition to any other punishment.

A N.-C. Officer or private may be sentenced to deductions from pay, to forfeit service and medals (other than the V.C.) in addition to any other punishment.

<sup>1</sup> A Commanding Officer can award this punishment on active service up to twenty-one days.

## CHAPTER XII.

## GENERAL.

LAW ON BOARD SHIP—COURTS OF INQUIRY—ON ILLEGAL  
ABSENCE—MARTIAL LAW—RIOT ACT.

**Law on board Ship.**

**In commission (*i.e.* H.M. warship)—**

**M. p. 605.** Regimental Court-Martial only for trial of N.-C.  
**Sec. 47,** Officers.  
**48.**

President may be Subaltern.

Confirmation must be concurred in by Captain of ship  
(in writing).

**Commanding Officer can give :**

**M. p. 608.** Minor summary punishment, 4, 5, 6, 7, and 8.  
No. 4. Stoppage of smoking, etc., up to 14 days.  
No. 5. Stoppage of smoking, etc., up to 7 days.  
No. 6. Stoppage of smoking only up to 28 days.  
No. 7. Fines for drunkenness.  
No. 8. Extra guards.

A man loses a badge for any of these awards over  
seven days.

**Not in Commission (*i.e.* Troopship hired)—**

A Commanding Officer can :

1. Apply for a General Court-Martial or a District  
Court-Martial if there is a General on board who holds a  
warrant to convene such Courts.

This may be confirmed if the above Officer has power  
to, otherwise it is confirmed on disembarkation.

2. Convene a Regimental Court-Martial.  
3. Dispose of the case.

## 4. Dismiss the case.

5. If he cannot dispose of the case and has not sufficient Officers on board to assemble a Court-Martial he may confine the soldier until disembarkation, making when possible the usual eight days' report referred to in A.A. Sec. 45 (1).

6. If the offence is beyond his power to deal with he may still in an emergency do so, but he must make a special report.

**Proviso.**

In *no case* can he thus deal with an offence entailing a punishment of death or penal servitude without the authority of a General Officer Commanding.

A ship takes with her the law of the land where embarkation took place, until the troops are landed, when they come under the law of the country in which is the port or place of disembarkation.

Sec. 188.

**Courts of Inquiry—**

Which may involve points of discipline are assembled to assist the convening Officer in forming an opinion on the subject of their reference.

R.P. 124.  
K.R. 666.

They may consist :

- (a) Of any number of Officers.
- (b) From any branch of the service.
- (c) They may take evidence on oath (including a Board on recovered prisoners of war).
- (d) Cannot compel civilian witnesses to attend.

K.R. 666.  
sec. 70 (5).  
R.P. 124,  
G.

They give no opinion unless specially directed to, or in the case of recovered prisoners of war.

K.R. 666.  
M.VI. 98.  
VIII. 77.  
R.P. 124,  
H.

The proceedings are not evidence against the accused before a Court-Martial.

**Court of Inquiry on Illegal Absence—**

Is assembled after absentee has been absent 21 days.

Sec. 72.

The Court is not sworn, but the evidence is taken on oath.

R.P. 125.  
K.R. 673.

The Court declares the fact of a man's absence and notes in detail the value of the public clothing of which he was deficient at the time when he absented himself.

**K.R 676.** Boards only differ from Courts of Inquiry in that the subject of their inquiry should not involve a point of discipline.

### **Martial Law.**

May be defined as—

1. The application of Military Law under the law of necessity when civil law, owing to the existence of war, ceases to operate ; or

2. The substitution of the will of the Commander for the ordinary law as regards persons who are not subject to Military Law.

Martial Law is brought into force by proclamation of the Commander-in-Chief in the field in foreign countries, or by the Governor of a Colony if in His Majesty's dominions.

After it has ceased to operate an Act of Indemnity is necessary in order to protect those who have operated it.

### **Riot Act.**

**M. XIII.** 'The military may use force by arms to prevent irreparable loss.'  
**K.R. 948, et seq.**

Guiding principles for Officers employed on :

1. Report daily to War Office and Officer commanding station.

2. Do not move without requisition in writing.

3. Keep a Magistrate with you.

4. Consult Magistrate as to disposition of troops.

5. Do not act until Magistrate has read Riot Act Proclamation.

6. Make Magistrate request you 'to take action.'

7. Give executive words of command yourself.

8. Warn people before firing.

9. Tell off detachment into squads of five.

10. Do not fire over heads.

## APPENDIX

THE Army Act Sections are arranged as follows :

Section.	Offence.	Punishment.
1	Title	—
2	Mode of bringing into force	—
3	Division of Act	—
4	Offences in relation to enemy	Death.
5	Ditto	Penal servitude.
6	Forces safeguard ; leaves C.O., etc. ; drunk on or leaves sentry post	On active service, death ; otherwise imprisonment, hard labour.
7	Mutiny and sedition	Death.
8	Striking or threatening	Death.
9	Disobedience	Death.
10	Insubordination	Imprisonment.
11	Neglect to obey	Imprisonment.
12	Desertion	On active service, death ; otherwise penal servitude (2nd) or imprison- ment.
13	Fraudulent enlistment	Penal servitude (2nd) or imprisonment.
14	Assisting to desert	Imprisonment.
15	Absence	Imprisonment.
16	Scandalous conduct (officer)	Cashiered.
17	Embezzlement	Penal servitude.
18	Malingering, etc. ; embezzling, stealing ; fraudulent offence	Imprisonment.
19	Drunkenness	Imprisonment ; fine, 1/.
20	Permitting escape prisoner	Penal servitude (will- ingly) or imprison- ment.
21	Irregular imprisonment	Imprisonment.
22	Escaping	Imprisonment.
23	Corruption, supplies, etc.	Imprisonment.
24	Injuring or losing equipment	Imprisonment.
25	Falsifying documents or fraudu- lent statements	Imprisonment.

Part I.

	Section.	Offence.	Punishment.
Courts-M.	26	Signing in blank ; neglect to report	Imprisonment.
	27	False accusation	Imprisonment.
	28	Witness absent ; refuses oath, etc. (contempt of Court)	Imprisonment.
	29	False evidence	Imprisonment.
Billeting. Impress- ment.	30	Offences in regard to	Imprisonment.
	31	Ditto	Imprisonment.
	32	Enlisting after discharge with ignominy	Imprisonment.
	33	False answer on attestation	Imprisonment.
	34	Assisting to wrongfully enlist	Imprisonment.
	35	Traitorous words	Imprisonment.
	36	Injurious disclosures	Imprisonment.
	37	Ill-treating soldier ; withhold- ing pay	Imprisonment.
	38	Duelling and attempting suicide	Imprisonment.
	39	Refusing to hand over to civil power, soldier or officer	Imprisonment.
Courts-M.	40	'Conduct'	Imprisonment.
	41	Treason, murder, manslaughter, rape, burglary (any offence)	Same as Civil Courts.
	42	Redress of wrongs (officer)	—
	43	Ditto (soldier)	—
	44	Punishments	—
	45	Custody	—
	46	Powers of C.O.	—
	47	R.C.M.	—
	48	G. and D.C.M.	—
	49	F.G.C.M.	R.P. 105-123.
	50	Eligibility	—
	51	Challenge	—
	52	Oath	—
	53	Procedure	—
	54	Confirmation, etc.	—
	55	Repealed	—
	56	Alternative findings	—
	57	Commute and remit	—
	58	Effects of penal servitude	—
	59	Penal servitude prisons, commit- ments	—
	60	Ditto in India	—
	61	Ditto in foreign country	—
	62	Penal servitude prisons, general	—
	63	Imprisonment and detention	—
	64	Ditto, definition and commit- ments	—
	65	Ditto in India	—
	66	Ditto foreign country	—
	67	Removal to corps of prisoner	—
	68	Commencement of P.S.	—

Section.	Offence.	Punishment.
69	Articles of War, powers to make	—
70	R.P.	R.P. 104.
71	Command	—
72	Court of Inquiry on illegal absence	R.P. 125
73	Confession of desertion and fraudulent enlistment	—
74	Provost-Marshal	—
75	Returning stolen goods	—
76	Enlistment	—
77	Ditto, terms of	—
78	Changing conditions of service	—
79	Reckoning and forfeiture of service	—
80	Mode of enlistment	—
81	Purchasing discharge	—
82	General service	—
83	Transfer	—
84	Re-engagement	—
85	Continuance	—
86	Ditto, N.-C.O.s	—
87	Prolonging service	—
88	Imminent national danger	—
89	Transfer to Reserve when corps ordered abroad, etc.	—
90	Discharge or transfer to Reserve	—
91	Lunatics	R.P. 57.
92	When soldier may be discharged	—
93	Recruiting enlisting officers	—
94	J.P.s for above	—
95	Enlistment—aliens, negroes	—
96	Claims to apprentice	Pages 358-9.
97	Indentured labourer	—
98	Unlawful recruiting	Fine, 20 <i>l</i> .
99	False answer to J.P.	Imprisonment three months.
100	When duly attested— <i>i.e.</i> after receiving three months' pay	—
101	Competent authority	—
102	Billetting, suspension of certain laws	—
103	Constable to provide billets	—
104	Liability to provide billets	—
105	Who is entitled to billets	—
106	Payment and accommodation	—
107	Annual list	—
108	Grant of billets	—
109	Offences of constables	40 <i>s.</i> to 10 <i>l</i> .
110	Ditto innkeepers	40 <i>s.</i> to 5 <i>l</i> .
111	Offences by officers, etc., in regard to billets	50 <i>l</i> .

Part II.

Part III.

## Part IV.

Section.	Offence.	Punishment.
112	Impressment of carriages	—
113	Payment for	—
114	Annual list	—
115	Supply of carriages in emergency	—
116	Offence by police <i>vs</i> impressment	—
117	Offence by persons ordered to furnish	—
118	Offence by officers and soldiers	—
119	Recovering debts for above	—
120	Provisions for constables, etc.	—
121	Fraudulent claim for above	—
122	Royal Warrants	—
123	Convening and confirming D.C.M.	R.P. 16-21 ; 51-56.
124	Copy of proceedings to prisoner	—
125	Privilege and summoning witnesses	R.P. 73-86.
126	Misconduct of a civilian before a Court-Martial	Same as Civil Court and by a Civil Court
127	Courts-Martial under English law only	—
128	Rules of evidence ditto	R.P. 73-86.
129	Counsel—contempt of Court	Removed from Court
130	Insanes	R.P. 57.
131	Prison arrangements over 12 months, etc.	—
132	Receiving prisoners	—
133	Prisons	—
134	Ditto, Indian, etc.	—
135	Classification of prisoners	Also K.R. 607.
136	Deduction from pay	—
137	Stoppages	—
138	Penal deductions	—
139	Remitting deductions	—
140	Deductions	—
141	Assignment of pay	—
142	Personation	Fine, 25 <i>l</i> .
143	Toll exemptions	—
144	Civil process exemption	—
145	Maintenance of wife, etc.	—
146	Prohibition as regards becoming sheriffs, etc.	—
147	Exemption from jury service	—
148	Repealed	—
149	Ditto	—
150	Ditto	—
151	Ditto	—
152	False confession, desertion	Imprisonment, three months.
153	Inducing to desert	Imprisonment, six months.

Section.	Offence.	Punishment.
154	Apprehension of deserters	—
155	Trafficking in commissions	—
156	Purchasing equipment	—
157	One trial only	—
158	Liability to military law	—
159	Liability as to place	—
160	Useless	—
161	Limitation clause	—
162	Civil <i>v.</i> military law	Misdemeanour.
163	Evidence	—
164	Evidence of civil conviction	—
165	Evidence of military conviction	—
166	Jurisdiction of civil courts	—
167	Jurisdiction in Scotland	—
168	Islands and Colonies 'do'	—
169	Reduction of fines abroad	—
170	Protection of administrators of military law	—
171	Transmission of power under military law	—
172	Warrants and orders	—
173	Furlough for sickness	—
174	Canteen licences	—
174A	Recreation rooms	—
175	Persons subject to military law (officers)	—
176	Ditto (soldiers)	—
177	Colonials	—
178	Regulars and Auxiliary together	—
179	Marines	—
180	Indian forces	—
181	Auxiliary forces, modifications	—
182	Warrant officers	—
183	N.-C.O.s	—
184	Civilians	—
185	Prisons in Ireland	—
186	Saving Naval Discipline Act	—
187	Application of Act to Islands	—
188	Ditto to ships	—
189	Definition, etc., active service	—
190	Definitions	—

Part V.

## RULES OF PROCEDURE.

- 1.—Delay of trial.
- 2-8.—Powers of C.O.
- 9-12.—Framing charges.
- 13-15.—Preparation of defence.
- 16-21.—Convening.

- 22-23.—Constitution of Court.
- 24-30.—Challenge and swearing.
- 31-42.—Prosecution, defence, and summing.
- 43-50.—Finding and sentence.
- 51-56.—Confirmation and revision.
- 57.—Insanity.
- 58-72.—Proceedings generally.
- 73-86.—Witnesses and evidence.
- 87-94.—‘ Friend ’ and counsel.
- 95-100.—Preservation of proceedings.
- 101-103.—J.A.
- 104.—Suspension of rules
- 105-123.—F.G.C.M.
- 124.—Courts of Inquiry.
- 125.—Courts of Inquiry, illegal absence.
- 126-129.—Prescribed and Commanding Officer.
- 130.—Colonial.
- 131-139.—Supplemental.
- 134.—Definitions.
- Appendix I.—Forms of Charges.
- Appendix II.—Forms of Courts-Martial.
- Appendix III.—Forms of Commitment.

### RULES OF PROCEDURE.

- 1.—Report of delay of trial.
- 2.—Investigation by C.O.
- 3.—Hearing of charge.
- 4.—Disposal or adjournment.
- 5.—Remand.
- 6.—Summary award.
- 7.—Right of trial.
- 8.—Charge against officer.
- 9.—Charge-sheet.
- 10.—Commencement of charge-sheet.
- 11.—Contents.
- 12.—Validity.
- 13.—Preparation of defence.
- 14.—Charge delivered to prisoner.
- 15.—Joint trial.
- 16.—Convening R.C.M.
- 17.—Procedure on convening.
- 18.—Adjournment for insufficient officers.
- 19.—Ineligibility.
- 20.—Corps of.
- 21.—Rank.
- 22.—Legal constitution.

- 23.—Amenability and validity of charge.
- 24.—Prosecutor and accused, appearance of.
- 25.—Challenge.
- 26.—Swearing.
- 27.—Swearing of J.-A., etc.
- 28.—Solemn declaration.
- 29.—Plural oath.
- 30.—Swearing according to religion.
- 31.—Arraignment.
- 32.—Objection.
- 33.—Amendment of charge.
- 34.—Plea to jurisdiction.
- 35.—Guilty or not guilty.
- 36.—In bar.
- 37.—Procedure after plea.
- 38.—Withdrawal of plea Not guilty.
- 39.—Not guilty.
- 40.—Procedure—no witnesses for defence.
- 41.—Procedure—with witnesses for defence.
- 42.—Summing up.
- 43.—Finding.
- 44.—Record of.
- 45.—Acquittal.
- 46.—Conviction.
- 47.—Forfeiting seniority of rank.
- 48.—Sentence.
- 49.—Mercy.
- 50.—Signing and transmission.
- 51.—Confirmation.
- 52.—Revision.
- 53.—Promulgation.
- 54.—Mitigation.
- 55.—Finding on alternative charges, confirmation of.
- 56.—Confirmation in spite of informality.
- 57.—Insanity.
- 58.—Seating.
- 59.—President's responsibility.
- 60.—Powers over addresses.
- 61.—Procedure on trial of several prisoners.
- 62.—Separate charge-sheets.
- 63.—Closing.
- 64.—Time-limits daily.
- 65.—Continuity and adjournment.
- 66.—Suspension.
- 67.—Death of accused.
- 68.—Presence of all members.

- 69.—Opinions of all members.
- 70.—Incidental questions.
- 71.—Swearing Court for several prisoners.
- 72.—Swearing of interpreter and shorthand writer.
- 73.—Relevancy.
- 74.—Judicial notice.
- 75.—Calling of all witnesses.
- 76.—Ditto, not in summary.
- 77.—List of accused's witnesses.
- 78.—Procuring witnesses.
- 79.—Adjournment for absence of witness.
- 80.—Evidence, prisoner and wife.
- 81.—Withdrawal of witnesses.
- 82.—Swearing of witnesses.
- 83.—Questioning.
- 84.—Examination and cross-examination.
- 85.—Questions by Court, etc.
- 86.—Recalling.
- 87.—Prisoner's friend.
- 88.—Counsel.
- 89.—Requirements.
- 90.—Counsel for prosecution.
- 91.—Counsel for accused.
- 92.—General rules as to.
- 93.—Qualification of.
- 94.—Statement by prisoner defended by counsel.
- 95.—Record in proceedings.
- 96.—Custody of proceedings.
- 97.—Transmission.
- 98.—Preservation.
- 99.—Payment for.
- 100.—Loss of.
- 101.—J.-A., appointment.
- 102.—Substituting.
- 103.—Powers, etc.
- 104.—Suspension of rules.
- 105.—Convening F.G.C.M.
- 106.—Composition.
- 107.—Necessity for.
- 108.—Charge.
- 109.—Trial of several accused.
- 110.—Challenge.
- 111.—Swearing.
- 112.—Arraignment.
- 113.—Plea to jurisdiction.
- 114.—Witnesses.

- 115.—Swearing witnesses.
- 116.—Defence.
- 117.—Acquittal.
- 118.—Sentence.
- 119.—General provisions.
- 120.—Confirmation.
- 121.—Application of rules.
- 122.—‘Practicable and available,’ def. C.O.
- 123.—Opinion of convening and confirming officer.
- 124.—Courts of Inquiry.
- 125.—Illegal absence.
- 126.—Prescribed and commanding officer.
- 127.—Court of inquest.
- 128.—Competent military authority.
- 129.—Definition of C.O.
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